

**VOLUME 9A**  
**1990-91 RCW SUPPLEMENT**

---

**1989**  
**REVISED CODE OF WASHINGTON**

---

Published under authority of chapter 1.08 RCW.

---

**I. SCOPE OF SUPPLEMENT**

Volumes 9A and 9B supplement the 1989 edition of the Revised Code of Washington by adding the following materials:

1. **1990 Laws:** All laws of a general and permanent nature enacted in the 1990 regular session (adjourned sine die March 8, 1990), the 1990 first special session (adjourned April 1, 1990), and the 1990 second special session (adjourned June 5, 1990) of the fifty-first legislature.
2. **1991 Laws:** All laws of a general and permanent nature enacted in the 1991 regular session (adjourned sine die April 28, 1991) and the 1991 first special session (adjourned June 30, 1991) of the fifty-second legislature.
3. Rules of Court adopted between September 1, 1989, and August 31, 1991.
4. Appropriate supplementation of the various tables and general index.

**II. TABLE OF CONTENTS**

Washington Constitution .....	Volume 9A, page	A1
Rules of Court.....	Volume 9A, page	A3
Codification Tables .....	Volume 9A, page	A37
Table of Disposition of Former RCW Sections .....	Volume 9A, page	A63
Titles 1-41.....	Volume 9A, page	1
Titles 42-91 .....	Volume 9B, page	971
General Index .....	Volume 9B, page	1809

**REVISED CODE OF WASHINGTON**  
**1990-91 Supplement**

---

**© 1991 State of Washington**

---

**CERTIFICATE**

This 1990-91 supplement of the 1989 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with RCW 1.08.037, certified to comply with the current specifications of the committee.



RAYMOND W. HAMAN, Chairman,  
STATUTE LAW COMMITTEE

# CONSTITUTION OF THE STATE OF WASHINGTON

## Amendment No.

84	Art. 1 § 35	Victims of crimes—Rights.
85	Art. 4 § 31	Commission on judicial conduct.
86	Art. 8 § 10	Energy and water conservation assistance.

## AMENDMENT 84

Art. 1 § 35 VICTIMS OF CRIMES—RIGHTS. Effective law enforcement depends on cooperation from victims of crime. To ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect, victims of crime are hereby granted the following basic and fundamental rights.

Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right to be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, attend trial and all other court proceedings the defendant has the right to attend, and to make a statement at sentencing and at any proceeding where the defendant's release is considered, subject to the same rules of procedure which govern the defendant's rights. In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the victim's rights. This provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding nor a basis for providing a victim or the victim's representative with court appointed counsel. [1989 Senate Joint Resolution No. 8200. Approved November 7, 1989.]

## AMENDMENT 85

Art. 4 § 31 COMMISSION ON JUDICIAL CONDUCT. (1) There shall be a commission on judicial conduct, existing as an independent agency of the judicial branch, and consisting of a judge selected by and from the court of appeals judges, a judge selected by and from the superior court judges, a judge selected by and from the district court judges, two persons admitted to the practice of law in this state selected by the state bar association, and six persons who are not attorneys appointed by the governor.

(2) Whenever the commission receives a complaint against a judge or justice, or otherwise has reason to believe that a judge or justice should be admonished, reprimanded, censured, suspended, removed, or retired, the commission shall first investigate the complaint or belief and then conduct initial proceedings for the purpose of determining whether probable cause exists for conducting a public hearing or hearings to deal with the complaint or belief. The investigation and initial proceedings shall be confidential. Upon beginning an initial proceeding, the commission shall notify the judge or justice of the existence of and basis for the initial proceeding.

(3) Whenever the commission concludes, based on an initial proceeding, that there is probable cause to believe

that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall conduct a public hearing or hearings and shall make public all those records of the initial proceeding that provide the basis for its conclusion. If the commission concludes that there is not probable cause, it shall notify the judge or justice of its conclusion.

(4) Upon the completion of the hearing or hearings, the commission in open session shall either dismiss the case, or shall admonish, reprimand, or censure the judge or justice, or shall censure the judge or justice and recommend to the supreme court the suspension or removal of the judge or justice, or shall recommend to the supreme court the retirement of the judge or justice. The commission may not recommend suspension or removal unless it censures the judge or justice for the violation serving as the basis for the recommendation. The commission may recommend retirement of a judge or justice for a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.

(5) Upon the recommendation of the commission, the supreme court may suspend, remove, or retire a judge or justice. The office of a judge or justice retired or removed by the supreme court becomes vacant, and that person is ineligible for judicial office until eligibility is reinstated by the supreme court. The salary of a removed judge or justice shall cease. The supreme court shall specify the effect upon salary when it suspends a judge or justice. The supreme court may not suspend, remove, or retire a judge or justice until the commission, after notice and hearing, recommends that action be taken, and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against the judge or justice.

(6) Within thirty days after the commission admonishes, reprimands, or censures a judge or justice, the judge or justice shall have a right of appeal de novo to the supreme court.

(7) Any matter before the commission or supreme court may be disposed of by a stipulation entered into in a public proceeding. The stipulation shall be signed by the judge or justice and the commission or court. The stipulation may impose any terms and conditions deemed appropriate by the commission or court. A stipulation shall set forth all material facts relating to the proceeding and the conduct of the judge or justice.

(8) Whenever the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended immediately, with salary, from his or her judicial position until a final determination is made by the supreme court.

(9) The legislature shall provide for commissioners' terms of office and compensation. The commission shall

employ one or more investigative officers with appropriate professional training and experience. The investigative officers of the commission shall report directly to the commission. The commission shall also employ such administrative or other staff as are necessary to manage the affairs of the commission.

(10) The commission shall, to the extent that compliance does not conflict with this section, comply with laws of general applicability to state agencies with respect to rule-making procedures, and with respect to public notice of and attendance at commission proceedings other than initial proceedings. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings. [1989 Substitute Senate Joint Resolution No. 8202. Approved November 7, 1989.]

#### **AMENDMENT 86**

Art. 8 § 10 ENERGY AND WATER CONSERVATION ASSISTANCE. Notwithstanding the provisions of section 7 of this Article, any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of water or energy may, as authorized by the legislature, use public moneys or credit derived from operating revenues from the sale of water or energy to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of water or energy in such structures or equipment. Except as provided in section 7 of this Article, an appropriate charge back shall be made for such extension of public moneys or credit and the same shall be a lien against the structure benefited or a security interest in the equipment benefited. Any financing for energy conservation authorized by this article shall only be used for conservation purposes in existing structures and shall not be used for any purpose which results in a conversion from one energy source to another. [1989 Senate Joint Resolution No. 8210. Approved November 7, 1989.]

# RULES OF COURT

(From September 1, 1989 to August 31, 1991)

Adopted by the Supreme Court of the State of Washington

Published with the permission of the State Law Reports Office

This 1990-91 RCW Supplement to the Rules of Court sets forth the revisions to rules adopted by the Supreme Court from September 1, 1989 to August 31, 1991. A list of these orders is set forth below.

Additions and deletions in the amended rules are indicated by underlining and lining out, respectively, unless the entire rule is new. When only a portion of a rule is affected, only that portion is set forth. See Volume 0 of the 1989 Revised Code of Washington for the original text of the rule.

## Orders of the Supreme Court:

- (1) September 7, 1989, the Supreme Court adopted **GR 15** to read as set forth below, effective September 22, 1989.
- (2) November 2, 1989, the Supreme Court adopted **GR 11.1** and **CrRLJ 3.2(o)** and amended **CR 79(e)** to read as set forth below, effective November 17, 1989.
- (3) March 29, 1990, the Supreme Court adopted **AR 2** and amended **CR 47(b)** and **CrR 6.5** to read as set forth below, effective April 20, 1990.
- (4) March 29, 1990, the Supreme Court amended **CRLJ 10(c)** and **CrRLJ 1.5** to read as set forth below, to be effective September 1, 1990.
- (5) May 10, 1990, the Supreme Court amended **APR 3(b)** to read as set forth below, to be effective May 10, 1990.
- (6) May 10, 1990, the Supreme Court made the following amendments to the rules of court, effective September 1, 1990:
  - (a) Amendments to rules or sections of rules include **RPC Terminology**, 1.5(a), (b), and (c), 1.6(a) and (c), and 7.5(d); **RLD 2.3(f)**, 2.5(d), 2.8(b), 2.9(a), 5.5A(a), (b), and (e), 5.7(a), (c), and (d), 10.3(b), 11.1(b) and (m), 12.3, 12.8(b), 13.3 [renumbered 13.5], 13.4 [renumbered 13.3], and 13.5 [renumbered 13.6]; **RAP 2.2(b)**, 4.2, 4.3, 5.3(a), 5.5(d), (e), and (h), 7.2(c), (d), (e), and (h), 8.1, 8.2, 8.3, 8.4, 9.5, 9.6, 9.12, 10.2(h) and (i), 10.4(a) and (b), 10.5(b) and (c), 12.4(a), 12.5(b), 13.4(a), (d), (f), (h), and (i), 13.5(c), 13.6, 13.7(a), (d), and (e), 14.3(a) and (b), 16.10(e), 16.16(e), 17.3(c), 17.4(e), 17.5(c), 18.1, 18.6(a), 18.7, 18.9(a) and (b), 18.14(c), 18.23, and **RAP Form 17**; **CR 11**, 56(h), 62(a), and 71(d); **CrR 8.4**; **RALJ**

- 1.2(b), 2.1, 7.1, 7.2(c), 10.2, and 11.6; **CRLJ 11** and 71(d); and **CrRLJ 8.4**; and
  - (b) New rules include **APR 13** and 14 and **RLD 5.5B**.
- (7) June 7, 1990, the Supreme Court amended **CR 26(b)** to read as set forth below, effective September 1, 1990.
  - (8) September 6, 1990, the Supreme Court amended **RAP 9.5(a)** and (b) and 15.4(c) to read as set forth below, effective September 21, 1990.
  - (9) December 6, 1990, the Supreme Court made the following amendments to the Rules of Court, effective December 28, 1990:
    - (a) Amendments to rules or sections of rules are: **CR 26(b)** and **CrR 4.4(c)**; and
    - (b) New rules are: **AR 3** and 4.
  - (10) December 6, 1990, the Supreme Court made the following amendments to the Rules of Court, effective March 1, 1991:
    - (a) Amendments to rules or sections of rules are: **RPC 1.14(c)** and **RLD 1.1(j)** and Title 13; and
    - (b) New rule is: **RLD 13.4**.
  - (11) June 6, 1991, the Supreme Court made the following amendment to **RLD 11.1(a)**, effective June 14, 1991.
  - (12) June 6, 1991, the Supreme Court made the following amendments to the Rules of Court, effective September 1, 1991:
    - (a) Amendments to rules or sections of rules include **GR 7**; **RAP 7.2(f)**, 10.2(c), 16.4(d), 18.13(e), and 18.15(g); **MAR 1.3(b)**; **CrR 3.2(f)**, 4.2(f) and (g), 7.2(b), 7.4(b), and 7.8(b); **RALJ 2.2(a)** and 9.1(d), (e), (f), and (g); **CrRLJ 2.2(a)** and (b), 2.5, 3.2(f), 4.2(g) 7.2(b), 7.4(b), 7.5(b), and 7.8(b);
    - (b) New rules include **AR 5** (published for comment on January 9, 1991, as **AR 4**) and **CrR 4.10**; and
    - (c) Rescinded rules include **CrR 6.12(e)**.

## TABLE OF CONTENTS

### Notation of Revisions:

- (1) **Whole Rule**: When the full text of each rule is set forth, this is noted by the word "**Rule**" in bold-faced type preceding the rule number, e.g. **Rule GR 10**, **Rule APR 12**, etc. and the caption for the rule is set forth.
- (2) **Part of Rule**: If only a subpart of the rule is set forth, then the abbreviation used for that set of rules precedes the number of the subpart of the rule, e.g. **GR 10(a)**, **APR 12(b)(2)(iii)**, etc. and the caption for the rule is not set forth.

## Rules of Court

### GENERAL RULES (GR)

- Rule 7 Local Rules — Filing Required and Effective Date — Revision to Rule
- Rule 11.1 Code of Conduct for Court Interpreters — New Rule
- Rule 15 Destruction or Sealing of Court Records — New Rule

### RULES OF PROFESSIONAL CONDUCT (RPC)

#### Terminology

- Rule 1.5 Fees — Revision to Rule 1.5(a), (b), (c)
- Rule 1.6 Confidentiality — Revision to Rule 1.6(a), (c)
- Rule 1.14 Preserving Identity of Funds and Property of Client — Revision to Rule 1.14(c)
- Rule 7.5 Firm Names and Designations — Revision to Rule 7.5(d)

### ADMISSION TO PRACTICE RULES (APR)

- Rule 3 Applicants To Take the Bar Examination — Revision to Rule 3(b)
- Rule 13 Signing of Pleadings and Other Papers; Notice of Change of Address or Name — New Rule
- Rule 14 Limited Practice Rule for Foreign Law Consultants — New Rule

### RULES FOR LAWYER DISCIPLINE (RLD)

- Rule 1.1 Grounds for Discipline — Revision to Rule 1.1(j)
- Rule 2.3 Disciplinary Board — Revision to Rule 2.3(f)
- Rule 2.5 Hearing Officer or Panel — Revision to Rule 2.5(d)
- Rule 2.8 Respondent Lawyer — Revision to Rule 2.8(b)
- Rule 2.9 Complainant — Revision to Rule 2.9(a)
- Rule 5.5A Admonition — Revision to Rule 5.5A(a), (b), (e)
- Rule 5.5B Discipline for Cumulative Admonitions — New Rule
- Rule 5.7 Cost and Expenses — Revision to Rule 5.7(a), (c), (d)
- Rule 10.3 Reinstatement to Active Status — Revision to Rule 10.3(b)
- Rule 11.1 Pending Investigation and Proceedings — Revision to Rule 11.1(a), (b), (m)
- Rule 12.3 Papers — Revision to Rule
- Rule 12.8 Maintenance of Records — Revision to Rule 12.8(b)
- Title 13 Audit and Trust Account Overdraft Notification — Revision to Title
- Rule 13.3 Declaration of Questionnaire — Renumbering of Rule from 13.3 to 13.5
- Rule 13.4 Disclosure — Renumbering of Rule from 13.4 to 13.3
- Rule 13.4 Trust Account Overdraft Notification — New Rule
- Rule 13.5 Regulations — Renumbering of Rule from 13.5 to 13.6

### RULES ON APPELLATE PROCEDURE (RAP)

- Rule 2.2 Decision of the Superior Court Which May Be Appealed — Revision to Rule 2.2(b)
- Rule 4.2 Direct Review of Trial Court Decision by Supreme Court — New Rule
- Rule 4.3 Transfer of Cases by Supreme Court — Revision to Rule
- Rule 5.3 Content of Filing—Filing — Revision to Rule 5.3(a)
- Rule 5.5 Civil Appeal Statement and Settlement Conference in Court of Appeals — Revision to Rule 5.5(d), (e), (h)
- Rule 7.2 Authority of Trial Court After Review Accepted — Revision to Rule 7.2(c), (d), (e), (f) (h)
- Rule 8.1 Supersedes in the Trial Court — Revision to Rule
- Rule 8.2 Release of Defendant or Juvenile During Review — Revision to Rule
- Rule 8.3 Appellate Court Orders Needed for Effective Review — Revision to Rule
- Rule 8.4 Bond with Individual Sureties—Justification—Objection — Revision to Rule
- Rule 9.5 Filing and Service of Report of Proceedings—Objections — Revision to Rule
- Rule 9.6 Designation of Clerk's Papers and Exhibits — Revision to Rule
- Rule 9.12 Special Rule for Order on Summary Judgment — Revision to Rule
- Rule 10.2 Time for Filing Briefs — Revision to Rule 10.2(c), (h), (i)
- Rule 10.4 Preparation and Filing of Brief by Party — Revision to Rule 10.4(a), (b)
- Rule 10.5 Reproduction and Service of Briefs by Clerk — Revision to Rule 10.5(b), (c)

- Rule 12.4 Motion for Reconsideration of Decision for Terminating Review — Revision to Rule 12.4(a)
- Rule 12.5 Mandate — Revision to Rule 12.5(b)
- Rule 13.4 Discretionary Review of Decision Terminating Review — Revision to Rule 13.4(a), (d), (f), (h), (i)
- Rule 13.5 Discretionary Review of Interlocutory Decision — Revision to Rule 13.5(c)
- Rule 13.6 Acceptance Review — Revision to Rule
- Rule 13.7 Proceedings After Acceptance of Review — Revision to Rule 13.7(a), (d), (e)
- Rule 14.3 Expenses Allowed as Costs — Revision to Rule 14.3(a), (b)
- Rule 15.4 Claim for Payment of Expense for Indigent Party — Revision to Rule 15.4(c)
- Rule 16.4 Personal Restraint Petition — Grounds for Remedy — Revision to Rule 16.4(d)
- Rule 16.10 Personal Restrain Petition—Briefs — Revision to Rule 16.10(e)
- Rule 16.16 Question Certified by Federal Court — Revision to Rule 16.16(e)
- Rule 17.3 Content of Motion — Revision to Rule 17.3(c)
- Rule 17.4 Filing and Service of Motion—Response to Motion — Revision to Rule 17.4(e)
- Rule 17.5 Oral Argument of Motion — Revision to Rule 17.5(c)
- Rule 18.1 Attorney Fees and Expenses — Revision to Rule
- Rule 18.6 Computation of Time — Revision to Rule 18.6(a)
- Rule 18.7 Signing and Dating Papers — Revision to Rule
- Rule 18.9 Violation of Rules — Revision to Rule 18.9(a), (b)
- Rule 18.13 Accelerated Review of Dispositions in Juvenile Offense Proceedings — Revision to Rule 18.13(e)
- Rule 18.14 Motion on the Merits — Revision to Rule 18.14(c)
- Rule 18.15 Accelerated Review of Adult Sentencings — Revision to Rule 18.15(g)
- Rule 18.23 Mail Addressed to Appellate Courts — Revision to Rule
- Form 17 Personal Restraint Petition for Person Confined by State or Local Government — Revision to Form

### SUPERIOR COURT ADMINISTRATIVE RULES (AR)

- Rule 2 Case Information Cover Sheet — New Rule
- Rule 3 One Defendant Per Case — New Rule
- Rule 4 Presiding Judge, More Than One Judge in Superior Court District — New Rule
- Rule 5 Offender Financial Information — New Rule

### SUPERIOR COURT CIVIL RULES (CR)

- Rule 11 Signing of Pleadings, Motions, and Legal Memorandum: Sanctions — Revision to Rule
- Rule 26 General Provisions Governing Discovery — Revision to Rule 26(b)
- Rule 47 Jurors — Revision to Rule 47(b)
- Rule 56 Summary Judgment — Revision to Rule 56(h)
- Rule 62 Stay of Proceedings to Enforce a Judgment — Revision to Rule 62(a)
- Rule 71 Withdrawal by Attorney — Revision to Rule 71(d)
- Rule 79 Books and Records Kept by Clerk — Revision to Rule 79(e)

### SUPERIOR COURT MANDATORY ARBITRATION RULES (MAR)

- Rule 1.3 Relationship to Superior Court Jurisdiction and Other Rules — Revision to Rule 1.3(b)

### SUPERIOR COURT CRIMINAL RULES (CrR)

- Rule 3.2 Release of Accused — Revision to Rule 3.2(f)
- Rule 4.2 Pleas — Revision to Rule 4.2(f), (g)
- Rule 4.4 Severance of Offenses and Defendants — Revision to Rule 4.4(c)
- Rule 4.10 Material Witness — New Rule
- Rule 6.5 Alternate Jurors — Revision to Rule
- Rule 6.12 Witness — Revision to Rule 6.12(e)
- Rule 7.2 Sentencing — Revision to Rule 7.2(b)
- Rule 7.4 Arrest of Judgment — Revision to Rule 7.4(b)
- Rule 7.8 Relief from Judgment or Order — Revision to Rule 7.8(b)
- Rule 8.4 Service and Filing of Papers — Revision to Rule

**RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (RALJ)**

- Rule 1.2 Interpretation and Application of Rules — Revision to Rule 1.2(b)  
 Rule 2.1 Who May Appeal — Revision to Rule  
 Rule 2.2 What May Be Appealed — Revision to Rule 2.2(a)  
 Rule 7.1 Generally — Revision to Rule  
 Rule 7.2 Time for Filing Briefs — Revision to Rule 7.2(c)  
 Rule 9.1 Basis for Decision on Appeal — Revision to Rule 9.1(d), (e), (f), (g)  
 Rule 10.2 Violation of Rules Generally — Revision to Rule  
 Rule 11.6 Service and Filing of Papers — Revision to Rule

**CIVIL RULES FOR COURTS OF LIMITED JURISDICTION (CRLJ)**

- Rule 10 Form of Pleadings — Revision to Rule 10(c)  
 Rule 11 Signing of Pleadings — Revision to Rule  
 Rule 71 Withdrawal by Attorney — Revision to Rule 71(d)

**CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION (CrRLJ)**

- Rule 1.5 Style and Form — Revision to Rule  
 Rule 2.2 Warrant of Arrest or Summons Upon Complaint — Revision to Rule 2.2(a), (b)  
 Rule 2.5 Procedure on Failure to Obey Citation and Notice — Revision to Rule  
 Rule 3.2 Release of the Accused — Revision to Rule 3.2(f) and added Rule 3.2(o)  
 Rule 4.2 Pleas — Revision to Rule 4.2(g)  
 Rule 7.2 Sentencing — Revision to Rule 7.2(b)  
 Rule 7.4 Arrest of Judgment — Revision to Rule 7.4(b)  
 Rule 7.5 New Trial — Revision to Rule 7.5(c)  
 Rule 7.8 Relief from Judgment or Order — Revision to Rule 7.8(b)  
 Rule 8.4 Service and Filing of Papers — Revision to Rule

**GENERAL RULES (GR)***Table of Rules*

- Rule 7 Local Rules — Filing Required and Effective Date — Revision to Rule  
 Rule 11.1 Code of Conduct for Court Interpreters — New Rule  
 Rule 15 Destruction or Sealing of Court Records — New Rule

**Rule GR 7****LOCAL RULES—FILING REQUIRED AND EFFECTIVE DATE**

**(a) Generally.** ~~Rules Fifty copies of rules of court authorized by law to be adopted or amended by courts other than the Supreme Court must be filed with the state Administrator for the Courts, in the quantities specified. Such New proposed rules and amendments become must be filed on or before July 1 for comment, to be effective only after they are filed as required. September 1 of the same year. Promulgation or amendment of rules that describe only the structure, internal management and organization of the court but do not affect courtroom procedures are not governed by the time limitations above.~~

**(b) Form.** All local rules shall be consistent with rules adopted by the Supreme Court, and shall conform in numbering system and in format to these rules to facilitate their use. Each rule and amendment filed shall state its effective date in brackets following the rule. Prior to adopting a local rule, the court may informally submit a copy of its local rule to the Administrator for the Courts for comments as to its conformity in number and format

to the Official Rules of Court, and suggestions with reference thereto.

**(c) Distribution.** ~~The On or before September 1 of each year, the Administrator for the Courts shall distribute all local rules, and amendments thereto, to the state law library, the libraries of the three divisions of the Court of Appeals, all county law libraries, Washington law school libraries, and to such other places as are deemed appropriate by the Administrator for the Courts.~~

**(d) Effect Upon Existing Local Rules.** ~~Availability of Local Rules; Effect Upon Existing Local Rules. Local rules in effect as of January 1, 1981, may be amended only as provided in section (a). Local rules in effect as of January 1, 1981, whose validity did not formerly depend upon filing with the Administrator for the Courts are not invalidated by this rule, but they must be filed no later than June 1, 1981, to retain their validity beyond that date. The clerk of the court adopting the rules shall maintain a complete set of current local rules, which shall be available for inspection and copying. In order for local rules which are currently in effect to remain in effect they must be refiled with the Office of the Administrator for the Courts by September 15, 1991.~~

**(e) Emergency Rules.**

**(1)** In the event a court other than the Supreme Court deems that an emergency exists which requires a change in its rules, such court shall, in addition to filing the rules or amendments as provided in section (a), distribute them to all county law libraries.

**(2)** A rule or amendment adopted on an emergency basis shall become effective immediately on filing with the Administrator for the Courts. The rule or amendment shall remain effective for a period of 90 days after filing, unless readopted in accordance with section (e)(1) or submitted as a permanent rule or amendment under section (a) within the 90-day period.

**(f) Filing Local Rules Electronically.** In addition to filing the 50 copies of the local court rules required in section (a) of this rule, a court may send its local court rules to the Administrator for the Courts electronically. The Administrator for the Courts shall establish the specifications necessary for a court to file its local court rules electronically.

**Rule GR 11.1 – New Rule****CODE OF CONDUCT FOR COURT INTERPRETERS**

**PREAMBLE.** All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

**(a)** A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

**Rule GR 15 – New Rule  
DESTRUCTION OR SEALING  
OF COURT RECORDS**

(a) **Purpose and Scope of the Rule.** This rule sets forth a uniform procedure for the destruction or sealing of court files or specified documents or material in a court file. Except as provided by this rule and by RCW 36.23.065, the clerk shall maintain all documents and materials filed with the court, and shall make them available for public examination.

(b) **Definition and Construction of Terms.**

(1) *Seal.* To seal means to protect from examination. Sealing is accomplished by enclosing with a fastening which must be broken before access can be obtained. Sealed records may be examined only pursuant to section (d) of this rule. A motion or order to expunge, delete, purge, or erase shall be treated as a motion or order to seal.

(2) *Destroy.* To destroy means to remove and physically obliterate in such a way as to make permanently unavailable for examination or for use in any court or other proceeding.

(3) *Strike.* A motion or order to strike is not a motion or order to seal or destroy.

(c) **Grounds and Procedure for Requesting the Sealing or Destruction of Court Records.**

(1) *Criminal Cases or Juvenile Proceedings.*

(A) *Destruction of Files or Records.* On motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be destroyed if the court finds that such action is expressly permitted by statute. Reasonable notice of the hearing shall be given to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(B) *Sealing of Files and Records.* On motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be sealed if the court finds that such action is expressly permitted by statute or that there are compelling circumstances requiring such action. Reasonable notice of the hearing shall be given by the moving party to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(2) *Civil Cases.*

(A) *Destruction of Files or Records.* After entry of final judgment, no civil case file or any part thereof may be destroyed, except after files have been microfilmed as provided in RCW 36.23.065. Before entry of final judgment, civil case files or parts thereof may be destroyed only if the destruction is expressly permitted by statute.

(B) *Sealing of Files or Records.* On motion of any party to a civil proceeding, or on the court's own motion, and after reasonable notice to the nonmoving party and a hearing, the court may order the sealing of any files and records in the proceeding (i) to further an order entered under CR 12(f) or a protective order entered under CR 26(c); or (ii) under compelling circumstances where justice so requires.

(d) **Grounds and Procedure for Requesting the Opening of Sealed Records.**

(1) *Criminal Cases or Juvenile Proceedings.* After the entry of an order to seal all or part of a court file in a criminal or juvenile proceeding, the records sealed shall be opened only upon proof of compelling circumstances, unless otherwise provided by statute, and only upon motion and written notice to the persons entitled to notice under subsection (c)(1) of this rule.

(2) *Civil Cases.* After the entry of an order to seal all or part of a court file in a civil proceeding, the records sealed shall be opened only upon stipulation of all parties or upon motion and written notice to all parties and proof of compelling circumstances.

(e) **Clerk's Duties Upon the Filing of an Order To Destroy or Seal.** Upon the receipt of an order to destroy or seal signed by the court, the clerk shall take the following action:

(1) For orders to destroy the whole file, the clerk shall:

(A) Delete all references to the file from SCOMIS or other docket systems and all entries except the case number and substitute the words "File Destroyed"; and

(B) Remove and destroy the entire contents of the file, except for the order to destroy.

(2) For orders to seal the whole file, the clerk shall:

(A) Delete all references to the file from SCOMIS or other docket systems and all entries except the case number, the names of the parties, and the addresses of the parties or their attorneys, and substitute the words "File Sealed";

(B) Make a copy of all automated docket and other records and place them in the case file; and

(C) Seal the entire file, including but not limited to all pleadings, papers, depositions, exhibits, and court reporter's notes and minute entries, except for the order to seal.

(3) For orders to destroy specified documents or materials within a file, the clerk shall:

(A) On the automated or other docket substitute "Ordered Destroyed" for the docket entry, leaving only the date and number of the original documents or material;

(B) Remove and destroy the appropriate documents or material from the file, substituting a reference to the order to destroy, including the date and document number of the order; and

(C) File the order to destroy.

(4) For orders to seal specified documents or material within a file, the clerk shall:

(A) On the automated or other docket substitute "Ordered Sealed" for the docket entry, leaving only the date and number of the original documents or material;

(B) Remove the documents or material from the file, seal them, and return them to the file under seal; and

(C) If the file is made available for examination, remove the sealed records from the file before the rest of the file is made available and replace the sealed records immediately after the examination.

(f) **Microfilming of Sealed Records.** Sealed records may be microfilmed as provided in RCW 36.23.065 and such microfilm shall be maintained in accordance with this rule.

(g) **Trial Exhibits.** Notwithstanding any other provision of this rule, trial exhibits may be destroyed or returned to the parties if all parties so stipulate in writing and the court so orders.

(h) **Effect on Other Statutes.** Nothing in this rule is intended to restrict or to expand the authority of clerks

under existing statutes, nor is anything in this rule intended to restrict or expand the authority of any public auditor in the exercise of duties conferred by statute.

## RULES OF PROFESSIONAL CONDUCT (RPC)

### Table of Rules

#### Terminology

Rule 1.5 Fees — Revision to Rule 1.5(a), (b), (c)

Rule 1.6 Confidentiality — Revision to Rule 1.6(a), (c)

Rule 1.14 Preserving Identity of Funds and Property of Client —  
Revision to Rule 1.14(c)

Rule 7.5 Firm Names and Designations — Revision to Rule 7.5(d)

### TERMINOLOGY

"Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

"Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

"Consents in writing" or "written consent" means either (a) a written consent executed by a client, or (b) oral consent given by a client which the lawyer confirms in writing in a manner which can be easily understood by the client and which is promptly transmitted to the client.

"Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.

"Firm" or "law firm" denotes a lawyer or lawyers in a private firm, lawyers employed in the legal department of a corporation or other organization and lawyers employed in a legal services organization.

"Fraud" or "fraudulent" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information.

"Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Partner" denotes a member of a partnership and a shareholder in a law firm organized as a professional corporation.

"Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

"Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

"Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

"Secret" see "confidence".

"Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

## RPC 1.5(a), (b), (c)

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, ~~and~~ the skill requisite to perform the legal service properly and the terms of the fee agreement between the lawyer and client;

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

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

(4) The amount involved in the matter on which legal services are rendered and the results obtained;

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

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

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

(8) ~~Whether the fee is fixed or contingent.~~ Whether the fee agreement or confirming writing demonstrates that the client had received a reasonable and fair disclosure of material elements of the fee agreement and of the lawyer's billing practices.

(b) When the lawyer has not regularly represented the client, or if the fee agreement is substantially different than that previously used by the parties, the basis or rate of the fee or factors involved in determining the charges for legal services and the lawyer's billing practices shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation. Upon the request of the client in any matter, the lawyer shall communicate to the client in writing the basis or rate of the fee.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by section (d) or other law.

(1) A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(2) A contingent fee consisting of a percentage of the monetary amount recovered for a claimant, in which all or part of the recovery is to be paid in the future, shall be paid only (i) by applying the percentage to the amounts recovered as they are received by the client or (ii) by applying the percentage to the actual cost of the settlement or award to the defendant.

## RPC 1.6(a), (c)

(a) A lawyer shall not reveal confidences or secrets relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in sections (b) and (c).

~~...~~  
(c) A lawyer may reveal to the tribunal confidences or secrets which disclose any breach of fiduciary responsibility by a client who is a guardian, personal representative, receiver, or other court appointed fiduciary.

## RPC 1.14(c)

(c) Each trust account referred to in section (a) shall be an interest-bearing trust account in any bank, credit union or savings and loan association, selected by a lawyer in the exercise of ordinary prudence, authorized by federal or state law to do business in Washington and insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Washington Credit Union Share Guaranty Association, or the Federal Savings and Loan Insurance Corporation, or which is a qualified public depository as defined in RCW 39.58.010(2), which bank, credit union, savings and loan association or qualified public depository has filed an agreement with the Disciplinary Board pursuant to rule 13.4 of the Rules for Lawyer Discipline. Interest-bearing trust funds shall be placed in accounts in which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to reserve by law or regulation.

(1) A lawyer who receives client funds shall maintain a pooled interest-bearing trust account for deposit of client funds that are nominal in amount or expected to be held for a short period of time. The interest accruing on this account, net of reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, shall be paid to The Legal Foundation of Washington, as established by the Supreme Court of Washington. All other fees and transaction costs shall be paid by the lawyer. A lawyer may, but shall not be required to, notify the client of the intended use of such funds.

(2) All client funds shall be deposited in the account specified in subsection (1) unless they are deposited in:

(i) a separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(ii) a pooled interest-bearing trust account with sub-accounting that will provide for computation of interest earned by each client's funds and the payment thereof to the client.

(3) In determining whether to use the account specified in subsection (1) or an account specified in subsection (2), a lawyer shall consider only whether the funds to be invested could be utilized to provide a positive net return to the client, as determined by taking into consideration the following factors:

(i) the amount of interest that the funds would earn during the period they are expected to be deposited;

(ii) the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client's benefit; and

(iii) the capability of financial institutions to calculate and pay interest to individual clients.

(4) As to accounts created under subsection (c)(1), lawyers or law firms shall direct the depository institution:

(i) to remit interest or dividends, net of reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to The Legal Foundation of Washington. Other fees and transaction costs will be directed to the lawyer;

(ii) to transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing lawyer or law firm.

(5) The Foundation shall prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes, and any problems arising in the administration of the program established by section (c) of this rule.

(6) The provisions of section (c) shall not relieve a lawyer or law firm from any obligation imposed by these rules with respect to safekeeping of clients' funds, including the requirements of section (b) that a lawyer shall promptly notify a client of the receipt of his or her funds and shall promptly pay or deliver to the client as requested all funds in the possession of the lawyer which the client is entitled to receive.

#### RPC 7.5(d)

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact. Lawyers practicing out of the same office who are not partners or shareholders of a professional corporation may not join their names together. Lawyers who are not (1) partners or shareholders of a professional corporation, or (2) employees of a sole proprietorship, partnership, or professional corporation or other organization, or (3) in the relationship of being "Of Counsel" to a sole proprietorship, partnership, or professional corporation or other organization, shall have separate letterheads, cards and pleading paper, and shall sign their names individually at the end of all pleadings and correspondence and not in conjunction with the names of other lawyers.

## ADMISSION TO PRACTICE RULES (APR)

### Table of Rules

Rule 3	Applicants To Take the Bar Examination — Revision to Rule 3(b)
Rule 13	Signing of Pleadings and Other Papers; Notice of Change of Address or Name — New Rule
Rule 14	Limited Practice Rule for Foreign Law Consultants — New Rule

### APR 3(b)

(b) **Qualification for Bar Examination.** To qualify to sit for the bar examination, a person must:

~~(1) Be either (i) a citizen of the United States, or (ii) an alien lawfully admitted for permanent residence in accordance with federal immigration and naturalization law; and~~

~~(2) Present satisfactory proof of either (i) graduation from a law school approved by the Board of Governors, or (ii) completion of the law clerk program prescribed by these rules, or (iii) admission to the practice of law by examination, together with current good standing, in any state or territory of the United States or the District of Columbia, and active legal experience for at least 3 of the 5 years immediately preceding the filing of the application. "Active legal experience" shall mean experience either in the active practice of law, or as a teacher at an approved law school, or as a judge of a court of general or appellate jurisdiction, or any combination thereof, in a state or territory of the United States or in the District of Columbia.~~

### Rule APR 13 – New Rule

#### SIGNING OF PLEADINGS AND OTHER PAPERS; NOTICE OF CHANGE OF ADDRESS OR NAME

(a) **Signing of Pleadings and Other Papers.** All pleadings and other papers signed by an attorney and filed with a court shall include the attorney's Washington State Bar Association membership number in the signature block. The law department of a municipality, county, or state, public defender organization or law firm is authorized to make an application to the Office of the Administrator for the Courts for an office identification number. An office identification number may be assigned by the Office of the Administrator for the Courts upon a showing that it will facilitate the process of electronic notification. If an office identification number is granted, it shall appear with the attorney's Washington State Bar Association membership number in the signature block.

(b) **Change of Address.** An attorney whose office address changes shall, within 10 days after the change, notify in writing the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. In addition to the attorney's full name, the notice shall contain (1) the attorney's Washington State Bar Association membership number, (2) the previous address and telephone number, clearly identified as such, (3) the new address and telephone number, clearly identified as such, and (4) the effective date of the change. The courts of this state

may rely on the address information contained in the state computer system in issuing notices in pending actions.

(c) **Change of Name.** An attorney whose name changes shall, within 10 days after the change, notify in writing the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. The notice shall contain (1) the full previous name, clearly identified as such, (2) the full new name, clearly identified as such, (3) the attorney's Washington State Bar Association membership number, and (4) the effective date of the change.

(d) **Requirements of Local and Other Court Rules Not Affected.** The responsibility of a party or an attorney to keep the court and other parties and attorneys informed of the party's or attorney's correct name and current address, as may be required by local or other court rule, is not affected by this rule.

**Rule APR 14 – New Rule**  
**LIMITED PRACTICE RULE FOR**  
**FOREIGN LAW CONSULTANTS**

(a) **Purpose.** The purpose of this rule is to authorize lawyers from a foreign country to advise or consult about foreign law and to prescribe the conditions and limitations upon such limited practice.

(b) **Qualifications.**

(1) To qualify as a Foreign Law Consultant applicant for admission to the limited practice of law in the State of Washington as provided in these rules, a person must:

(i) Present satisfactory proof of both admission to the practice of law, together with current good standing, in a foreign jurisdiction, and active legal experience as a lawyer or counselor at law or the equivalent in a foreign jurisdiction for at least 5 of the 7 years immediately preceding the application; and

(ii) Possess the good moral character and fitness requisite for a member of the Bar of the State of Washington; and

(iii) Be an actual bona fide resident of the State of Washington; and

(iv) Execute under oath and file with the Bar Association two copies of an application, one of which shall be in the applicant's own handwriting, in such form as may be required by the Board of Governors; and

(v) File with the application a certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice, and the date thereof, and as to the good standing of such lawyer or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate, if it is not in English; and

(vi) File with the application a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or courts of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter, if it is not in English; and

(vii) Provide with the application such other evidence of the applicant's educational and professional qualifications, good moral character and fitness and compliance with the requirements of this rule as the Board of Governors may require; and

(viii) Pay upon the filing of the application a fee equal to that required pursuant to rule 3(d)(2) to be paid by an attorney applicant to take the bar examination.

(2) Upon a showing that strict compliance with the provisions of subsections (b)(1)(v) or (b)(1)(vi) would cause the applicant unnecessary hardship, the Board of Governors may at its discretion waive or vary the application of such provisions and permit the applicant to furnish other evidence in lieu thereof.

(c) **Procedure.** The Board of Governors shall approve or disapprove applications for admission of Foreign Law Consultants. Additional proof of any facts stated in the application may be required by the Board. In the event of the failure or refusal of the applicant to furnish any information or proof, or to answer any inquiry of the Board pertinent to the pending application, the Board may deny the application. Upon approval of the application by the Board of Governors, the Board shall recommend to the Supreme Court the admission of the applicant for the purposes herein stated. The Supreme Court may enter an order admitting to practice those applicants it deems qualified, conditioned upon such applicants:

(i) Taking and filing with the Clerk of the Supreme Court the Oath of Attorney pursuant to rule 5; and

(ii) Paying to the Bar Association its membership fee for the current year in the amount required of active members admitted for 3 or more years; and

(iii) Filing with the Bar Association in writing his or her address in the State of Washington, together with a statement that the applicant has read the Rules of Professional Conduct and Rules for Lawyer Discipline, is familiar with their contents and agrees to abide by them.

(2) Upon the entry of an order of admission, the filing of the required materials and payment of the membership fee, the applicant shall be enrolled as a Foreign Law Consultant and shall be entitled to the limited practice of law as specified by this rule.

(d) **Scope of Practice.** A Foreign Law Consultant shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A Foreign Law Consultant may not:

(1) Appear for a person other than the Foreign Law Consultant as lawyer in any court or before any magistrate or other judicial officer in this state (other than upon admission for a particular action or proceeding pursuant to rule 8(b)) or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer of this state;

(2) Prepare any deed, mortgage, assignment, discharge, lease or any other instrument affecting title to real estate located in the United States; or

(3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident thereof; or any

instrument related to the administration of a decedent's estate in the United States; or

(4) Prepare any instrument with respect to the marital relations, rights or duties of a resident of the United States, or the custody or care of the children of such a resident; or

(5) Render legal advice on the law of the State of Washington, of any other state or territory of the United States, of the District of Columbia or of the United States (whether rendered incident to preparation of legal instruments or otherwise) unless and to the extent that the Foreign Law Consultant is admitted to practice law before the highest court of such other jurisdiction; or

(6) In any way hold himself or herself out as a member of the Bar of the State of Washington; or

(7) Use any title other than "Foreign Law Consultant", the firm name, and/or authorized title used in the foreign country where the Foreign Law Consultant is admitted to practice. In each case, such title or name shall be used in conjunction with the name of such foreign country.

(e) **Disciplinary Provisions.** A Foreign Law Consultant shall be subject to the Rules for Lawyer Discipline and the Rules of Professional Conduct as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the Bar of this state. Jurisdiction shall continue whether or not the Consultant retains the authority for the limited practice of law in this state, and regardless of the residence of the Consultant.

**(f) Continuing Requirements.**

(1) *Continuing Legal Education.* Foreign Law Consultants shall comply with rule 11 concerning Continuing Legal Education.

(2) *Annual Fee.* A Foreign Law Consultant shall pay to the Bar Association its membership fee for the current year in the amount required of active members admitted to practice for 3 or more years.

(3) *Report.* A Foreign Law Consultant shall promptly report to the Bar Association any change in his or her status in any jurisdiction where he or she is admitted to practice.

(g) **Termination of License.** A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the court's own motion, or upon the motion of the Board of Governors, with or without cause, including failure to comply with the terms of this rule.

**RULES FOR LAWYER DISCIPLINE (RLD)**

*Table of Rules*

Rule 1.1	Grounds for Discipline — Revision to Rule 1.1(j)
Rule 2.3	Disciplinary Board — Revision to Rule 2.3(f)
Rule 2.5	Hearing Officer or Panel — Revision to Rule 2.5(d)
Rule 2.8	Respondent Lawyer — Revision to Rule 2.8(b)
Rule 2.9	Complainant — Revision to Rule 2.9(a)
Rule 5.5A	Admonition — Revision to Rule 5.5A(a), (b), (c)
Rule 5.5B	Discipline for Cumulative Admonitions — New Rule
Rule 5.7	Cost and Expenses — Revision to Rule 5.7(a), (c), (d)
Rule 10.3	Reinstatement to Active Status — Revision to Rule 10.3(b)
Rule 11.1	Pending Investigation and Proceedings — Revision to Rule 11.1(a), (b), (m)

Rule 12.3	Papers — Revision to Rule
Rule 12.8	Maintenance of Records — Revision to Rule 12.8(b)
Title 13	Audit and Trust Account Overdraft Notification — Revision to Title
Rule 13.3	Declaration of Questionnaire — Renumbering of Rule from 13.3 to 13.5
Rule 13.4	Disclosure — Renumbering of Rule from 13.4 to 13.3
Rule 13.4	Trust Account Overdraft Notification — New Rule
Rule 13.5	Regulations — Renumbering of Rule from 13.5 to 13.6

**RLD 1.1(j)**

(j) Violation of duties imposed by these rules, including but not limited to violation of rule 2.8, failing to respond to inquiries or requests regarding matters under investigation; rule 4.5, failing to file an answer to a formal complaint; rule 4.6(c), failing to file an answer to an amendment to a formal complaint; rule 4.7(e), failing to cooperate with discovery; rule 4.10(g), failing to attend a hearing or failing to bring materials requested by state bar counsel; rule 5.5(b), failing to appear to receive a reprimand; rule 8.1, failing to notify clients and others of inability to act; rule 8.2, failing to discontinue practice; rule 8.3, failing to file an affidavit of compliance; rule 11.1(l), wrongful disclosure; rule 13.2, failing to cooperate with an examination of books and records; rule 13.4(d), failing to notify Association of trust account overdraft; rule ~~13.3~~, 13.5, failing to file a declaration or questionnaire certifying compliance with RPC 1.14;

**RLD 2.3(f)**

(f) **Authority of Board.** The Board shall have the power and authority to:

(1) Review each proceeding in which a recommendation of disbarment, suspension, or transfer to disability inactive status has been made by a hearing officer or panel;

(2) Review each proceeding in which a recommendation other than disbarment or suspension from the practice of law has been made by a hearing officer or panel, including a recommendation of dismissal, upon an appeal filed pursuant to rule 6.1(b);

(3) Review stipulations entered into pursuant to rule 4.14 when such stipulations provide for suspension or disbarment;

(4) Review any prehearing ruling of a hearing officer or panel, upon request for review by either the respondent lawyer or state bar counsel, where the chairperson of the Board determines that such review is necessary and appropriate and will serve the ends of justice;

(5) Review the decision of a review committee dismissing allegations of misconduct by a lawyer when such review is directed by the chairperson of the Board, and upon such review order a hearing on the alleged misconduct, dismiss the matter, issue an advisory letter pursuant to rule 5.6, issue an admonition pursuant to rule 5.5A, or order such further investigation as may appear appropriate;

(6) Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Board of Governors or Supreme Court, or as may be necessary and proper to carry out its duties.

**RLD 2.5(d)**

**(d) Terms of Appointment.** Appointment by the Board of Governors to the hearing officer list, or to the list of nonlawyers maintained pursuant to section (c), shall be for a period of 3 years and shall be subject to reappointment at the discretion of the Board of Governors. Eligibility of a member of the Disciplinary Board to serve as a hearing officer or panel member shall be concurrent with his or her term on the Board. Notwithstanding the provisions of this rule, a hearing officer or panel member shall have authority to act in any matter assigned to him or her prior to the expiration of his or her appointment or term.

**RLD 2.8(b)**

**(b) Failure To Cooperate.** When a lawyer has failed to comply with any request made pursuant to section (a) for more than 30 days, state bar counsel may notify the lawyer that failure to so comply within 10 days may necessitate the taking of the deposition of the lawyer pursuant to subpoena.

(1) Any deposition conducted after the expiration of that 10-day period and necessitated by the continued failure to cooperate by the lawyer may be conducted at any place within the state of Washington.

(2) A lawyer whose failure to cooperate has resulted in a subpoena being served for a deposition being to be conducted pursuant to the preceding subsection shall be liable for the actual costs of ~~conducting such that~~ deposition, including but not limited to service fees, court reporter fees, travel expenses and the cost of transcribing the deposition, if ordered by state bar counsel, regardless of the ultimate disposition of the underlying complaint. In addition, a lawyer whose failure to cooperate has resulted in service of a subpoena for a deposition shall be liable for the expense of a reasonable attorney fee of \$200. Upon application of state bar counsel to a review committee itemizing the costs and expenses and setting forth the reasons necessitating the deposition, and after giving the lawyer 10 days to respond, the review committee shall by order assess such costs and expenses as appear appropriate against the lawyer. Board review of an order assessing costs and expenses under this rule may be conducted in the same manner and under the same terms as review under rule 5.7(e).

(3) Failure of a lawyer to cooperate fully and promptly with an investigation as required by section (a) of this rule shall also constitute grounds for discipline.

**RLD 2.9(a)**

**(a) Rights.** Any person filing a complaint with the Association alleging an act of misconduct by a lawyer shall have the right to:

(1) Be advised promptly of the receipt of the complaint, and of the name, address and office phone number of the person assigned to its investigation if such an assignment is made;

(2) Request reconsideration by a review committee of a conditional dismissal of the complaint by state bar counsel or reconsideration by the Board of a dismissal of

the complaint by a review committee when the chairperson of the Board so directs;

(3) Have a reasonable opportunity to speak with the investigator assigned to the complaint, by telephone or in person, concerning the substance of the complaint or its status;

(4) Receive a copy of any response submitted by the lawyer complained against, except when that response makes reference to confidences or secrets of a client of the lawyer to which the complainant is not privy, or contains information of a personal and private nature regarding the lawyer, or when a review committee determines that the interests of justice would better be served if the response is not released;

(5) Submit additional supplemental written information or documentation at any time;

(6) ~~Attend and testify as a witness at any hearing conducted into the complaint, subject to the applicable rules of evidence and any protective order issued pursuant to rule 11.1(f);~~

(7) Testify as a witness at any hearing conducted into the complaint, subject to the applicable rules of evidence and any protective order issued pursuant to rule 11.1(f);

~~(7)(8)~~ Be advised of the disposition of the complaint.

**RLD 5.5A(a), (b), (e)**

**(a) Grounds.** An admonition may be issued by a review committee, or as permitted by rule 2.3(f)(5), by the Disciplinary Board, when investigation of a complaint shows misconduct involving inattention, neglect or lack of competence in handling a matter.

**(b) Effect.** An admonition shall be admissible in evidence in subsequent discipline or disability proceedings involving the lawyer. File materials relating to an investigation concluded with an admonition, including the admonition, shall be subject to destruction as provided in rule 12.8(b).

**(e) Admonition Not Public.** An admonition shall not be a public matter, unless a stipulation approved by a review committee or Disciplinary Board provides that the admonition shall be public, or the admonition is admitted into evidence in a public disciplinary proceeding, or issued by the Board after a hearing under section (d).

**Rule RLD 5.5B – New Rule****DISCIPLINE FOR CUMULATIVE ADMONITIONS**

**(a) Grounds.** A lawyer may be disciplined, and receive a sanction pursuant to rule 5.1, upon accumulation of three admonitions within a 5-year period.

**(b) Procedure.** Upon being presented with evidence that a lawyer has received three admonitions within a 5-year period following the effective date of this rule, a review committee may authorize the filing of a formal complaint based solely on the provisions of this rule. The issues in such a proceeding, which shall be conducted in the same manner as any disciplinary proceeding, shall be whether the respondent lawyer has accumulated a record of three admonitions within a 5-year period and, if so, what disciplinary sanction should be recommended.

**RLD 5.7(a), (c), (d)**

(a) **Assessment.** In all cases in which a sanction or admonition is imposed upon a lawyer following a hearing and a finding of misconduct, or a lawyer accepts an admonition pursuant to rule 5.5A(a), costs and expenses as herein defined may be assessed against the lawyer in favor of the Association.

(c) **Expenses Defined.** "Expenses" for the purposes of this rule shall mean a reasonable charge for attorney fees and administrative costs. Expenses assessed pursuant to this rule may equal the actual expenses incurred by the Association, but in any case the following amounts shall conclusively be presumed reasonable:

(1) For an admonition that is accepted pursuant to rule 5.5A(a), \$500.

~~(1)(2)~~ (2) For a matter which becomes final without review by the Board, ~~\$500~~ \$1,000.

~~(2)(3)~~ (3) For a matter which becomes final following Board review, without appeal to the Supreme Court, a total of ~~\$750~~ \$1,500.

~~(3)(4)~~ (4) For a matter appealed to the Supreme Court, a total of ~~\$1,000~~ \$2,000.

(d) **Association To File Statement of Costs and Expenses.** When the decision of a hearing officer or panel imposing a sanction becomes final without Board review, or when a decision of the Board imposing a sanction or an admonition is becomes final after being served on the respondent lawyer after Board review, or when a decision of the Board imposing discipline is appealed, the Association shall have 10 days in which to file a statement of costs and expenses in the office of the Association.

(1) *Content.* A statement of costs and expenses shall state with particularity the nature and amount of the costs claimed and shall state the expenses requested. The statement shall be signed by state bar counsel, which signature shall constitute a certification that all reasonable attempts have been made to insure the accuracy of the statement.

(2) *Exceptions.* The respondent lawyer shall have 10 days from service of the statement of costs and expenses on him or her to file exceptions in the office of the Association.

**RLD 10.3(b)**

(b) **Petition and Initial Review.** The petition for reinstatement shall set forth the facts demonstrating that the disability has been removed. The petition shall be filed with the Board at the office of the Association. Upon the filing of the petition the chairperson of the Board shall direct whatever action appears necessary or proper to determine whether the disability has been removed. Such actions include but are not limited to direction: (1) that state bar counsel or any other person conduct an investigation and file a report; (2) that an examination of the lawyer be conducted by a qualified expert or experts; and (3) that a hearing be held before the Board, or before a hearing officer or panel. Such a hearing shall

be conducted under the same procedural rules as disciplinary proceedings.

**RLD 11.1(a), (b), (m)**

(a) **Investigations Confidential.** An investigation into an alleged act of misconduct by a lawyer shall be confidential except as necessary to conduct the investigation or to keep a complainant advised of the status of a matter, but the pendency, subject matter, and status of an investigation may be disclosed if:

(1) Both the respondent lawyer and the complainant have waived confidentiality; or

(2) The proceeding is based upon the conviction of a crime; or

(3) A review panel finds that the investigation is based upon allegations that have become generally known to the public.

In furtherance of its supervisory function, and not in derogation of the foregoing, the Board of Governors shall have access to all records and information of the disciplinary department.

(b) **Release May Be Authorized.** The Board of Governors, or the Executive Director acting under the direction of the Board, may authorize the general or limited release of any confidential information obtained during the course of an investigation when to do so appears necessary to protect the interests of clients or other persons, the public, or the integrity of the Bar. A respondent lawyer shall be served with given notice of a decision to release information under this section 5 days prior to its release unless the Board, or the Executive Director acting under the direction of the Board, finds that such notice would jeopardize serious interests of any person or the public, or that the delay caused by giving the notice to the respondent would be detrimental to the integrity of the Bar.

(m) **Release to Client's Security Program Committee.** Nothing in these rules shall prohibit the release of information obtained during the course of an investigation to the Client's Security Program Committee concerning applications which are pending before the Committee. The Committee shall treat such information as confidential unless release is authorized by this rule or the Board of Governors.

**Rule RLD 12.3****PAPERS**

All pleadings or other papers under these rules must be typewritten or printed, double spaced, on good quality 8½- by 11-inch or 8½- by 13-inch paper. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

**RLD 12.8(b)**

(b) **Destruction of Files.** In any matter in which a complaint or investigation has been dismissed without the imposition of a disciplinary sanction, whether following a hearing or otherwise, file materials relating to the matter may be destroyed 5 years after the dismissal

first occurred, and shall be destroyed at that time upon the request of the lawyer involved unless the files are being used in an ongoing investigation or unless other good cause exists for retention. The Board of Governors shall rule on a request by a lawyer for destruction of files pursuant to this rule when that request is opposed by state bar counsel.

RLD Title 13

AUDITS AND TRUST ACCOUNT OVERDRAFT  
NOTIFICATION

**Rule RLD 13.35**

**DECLARATION OR QUESTIONNAIRE**

(a) **Questionnaire.** The Association shall cause to be directed annually to each active lawyer a written declaration or questionnaire designed to determine whether such lawyer is complying with RPC 1.14. Such declaration or questionnaire shall be completed, executed and delivered by such lawyer to the Association on or before the date of delivery specified in such declaration or questionnaire.

(b) **Noncompliance.** Failure to file the declaration or questionnaire on or before the date specified in section (a) shall be grounds for discipline. Such failure shall also subject the lawyer who has failed to comply with this rule to a full audit of his or her books and records as provided in rule 13.1(c), upon request of state bar counsel to a review committee. A copy of any request made under this section shall be served upon the lawyer involved. The request shall be granted upon a showing that the lawyer has failed to comply with section (a) of this rule. If the lawyer should later comply, state bar counsel shall have discretion to determine whether an audit should be conducted, and if so the scope of that audit. A lawyer audited pursuant to this section shall be liable for all actual costs of conducting such audit, and also a charge of \$100 per day spent by the auditor in conducting the audit and preparing an audit report. Costs and charges shall be assessed in the same manner as costs under rule 2.8(b)(2).

**Rule RLD 13.43**

**DISCLOSURE**

The examination and audit report shall be open to the Board, state bar counsel, the lawyer or firm examined, investigated or audited, and to the Board of Governors upon its request, unless a disciplinary proceeding is commenced in which event the disclosure provisions of Title 11 shall apply.

**Rule RLD 13.4 – New Rule**

**TRUST ACCOUNT OVERDRAFT NOTIFICATION**

(a) **Overdraft Notification Agreement Required.** Every bank, credit union, savings and loan association or qualified public depository referred to in RPC 1.14(c) shall be approved as a depository for lawyer trust accounts if it shall file with the Disciplinary Board an agreement, in a form provided by the Board, to report to the Board in

the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds, whether or not the instrument is honored. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon 30 days' notice in writing to the Board. The Board shall annually publish a list of approved financial institutions.

(b) **Overdraft Reports.** The overdraft notification agreement shall provide that all reports made by the financial institution shall contain the following information:

- (1) The identity of the financial institution;
- (2) The identity of the lawyer or law firm;
- (3) The account number;
- (4) Either (i) the amount of overdraft and date created; or (ii) the amount of the returned instrument(s) and the date returned.

The information required by the notification agreement shall be provided within 5 banking days of the date the item(s) was paid or returned unpaid.

(c) **Costs.** Nothing herein shall preclude a financial institution from charging a particular lawyer or law firm for the reasonable cost of producing the reports and records required by this rule, but such charges shall not be a transaction cost to be charged against funds payable to the Legal Foundation of Washington pursuant to RPC 1.14(c)(1).

(d) **Notification by Lawyer.** Every lawyer who receives notification that any instrument presented against his or her trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify the Office of Disciplinary Counsel of the Association of the same information required by section (b). The lawyer shall include a full explanation of the cause of the overdraft.

**Rule RLD 13.56**

**REGULATIONS**

The Disciplinary Board may adopt regulations pertinent to the powers set forth in this rule subject to the approval of the Board of Governors and the Supreme Court.

**RULES ON APPELLATE PROCEDURE (RAP)**

*Table of Rules*

Rule 2.2	Decision of the Superior Court Which May Be Appealed — Revision to Rule 2.2(b)
Rule 4.2	Direct Review of Trial Court Decision by Supreme Court — New Rule
Rule 4.3	Transfer of Cases by Supreme Court — Revision to Rule
Rule 5.3	Content of Filing—Filing — Revision to Rule 5.3(a)
Rule 5.5	Civil Appeal Statement and Settlement Conference in Court of Appeals — Revision to Rule 5.5(d), (e), (h)
Rule 7.2	Authority of Trial Court After Review Accepted — Revision to Rule 7.2(c), (d), (e), (f), (h)
Rule 8.1	Supersedeas in the Trial Court — Revision to Rule
Rule 8.2	Release of Defendant or Juvenile During Review — Revision to Rule
Rule 8.3	Appellate Court Orders Needed for Effective Review — Revision to Rule
Rule 8.4	Bond with Individual Sureties—Justification—Objection — Revision to Rule

- Rule 9.5 Filing and Service of Report of Proceedings—Objections — Revision to Rule
- Rule 9.6 Designation of Clerk's Papers and Exhibits — Revision to Rule
- Rule 9.12 Special Rule for Order on Summary Judgment — Revision to Rule
- Rule 10.2 Time for Filing Briefs — Revision to Rule 10.2(c), (h), (i)
- Rule 10.4 Preparation and Filing of Brief by Party — Revision to Rule 10.4(a), (b)
- Rule 10.5 Reproduction and Service of Briefs by Clerk — Revision to Rule 10.5(b), (c)
- Rule 12.4 Motion for Reconsideration of Decision for Terminating Review — Revision to Rule 12.4(a)
- Rule 12.5 Mandate — Revision to Rule 12.5(b)
- Rule 13.4 Discretionary Review of Decision Terminating Review — Revision to Rule 13.4(a), (d), (f), (h), (i)
- Rule 13.5 Discretionary Review of Interlocutory Decision — Revision to Rule 13.5(c)
- Rule 13.6 Acceptance Review — Revision to Rule
- Rule 13.7 Proceedings After Acceptance of Review — Revision to Rule 13.7(a), (d), (e)
- Rule 14.3 Expenses Allowed as Costs — Revision to Rule 14.3(a), (b)
- Rule 15.4 Claim for Payment of Expense for Indigent Party — Revision to Rule 15.4(c)
- Rule 16.4 Personal Restraint Petition — Grounds for Remedy — Revision to Rule 16.4(d)
- Rule 16.10 Personal Restraint Petition—Briefs — Revision to Rule 16.10(e)
- Rule 16.16 Question Certified by Federal Court — Revision to Rule 16.16(e)
- Rule 17.3 Content of Motion — Revision to Rule 17.3(c)
- Rule 17.4 Filing and Service of Motion—Response to Motion — Revision to Rule 17.4(e)
- Rule 17.5 Oral Argument of Motion — Revision to Rule 17.5(c)
- Rule 18.1 Attorney Fees and Expenses — Revision to Rule
- Rule 18.6 Computation of Time — Revision to Rule 18.6(a)
- Rule 18.7 Signing and Dating Papers — Revision to Rule
- Rule 18.9 Violation of Rules — Revision to Rule 18.9(a), (b)
- Rule 18.13 Accelerated Review of Dispositions in Juvenile Offense Proceedings — Revision to Rule 18.13(e)
- Rule 18.14 Motion on the Merits — Revision to Rule 18.14(c)
- Rule 18.15 Accelerated Review of Adult Sentencings — Revision to Rule 18.15(g)
- Rule 18.23 Mail Addressed to Appellate Courts — Revision to Rule
- Form 17 Personal Restraint Petition for Person Confined by State or Local Government — Revision to Form

### RAP 2.2(b)

**(b) Appeal by State or a Local Government in Criminal Case.** Except as provided in section (c), the State or a local government may appeal in a criminal case only from the following superior court decisions and only if the appeal will not place the defendant in double jeopardy:

(1) *Final Decision, Except Not Guilty.* A decision which in effect abates, discontinues, or determines the case other than by a judgment or verdict of not guilty, including but not limited to a decision setting aside, quashing, or dismissing an indictment or information.

(2) *Pretrial Order Suppressing Evidence.* A pretrial order suppressing evidence, if the trial court expressly finds that the practical effect of the order is to terminate the case.

(3) *Arrest or Vacation of Judgment.* An order arresting or vacating a judgment.

(4) *New Trial.* An order granting a new trial.

(5) *Disposition in Juvenile Offense Proceeding.* A disposition in a juvenile offense proceeding which is ~~outside~~

below the standard range of disposition for the offense or which the state or local government believes involves a miscalculation of the standard range.

(6) *Sentence in Criminal Case.* A sentence in a criminal case which is below the standard range for the offense or which the state or local government believes involves a miscalculation of the standard range.

### Rule RAP 4.2 – New Rule

#### DIRECT REVIEW OF TRIAL COURT DECISION BY SUPREME COURT

**(a) Types of Cases Reviewed Directly.** A party may seek review in the Supreme Court of a decision of a trial court which is subject to review as provided in Title 2 only in the following types of cases:

(1) *Authorized by Statute.* A case in which a statute authorizes direct review in the Supreme Court.

(2) *Law Unconstitutional.* A case in which the trial court has held invalid a statute, ordinance, tax, impost, assessment, or toll, upon the ground that it is repugnant to the United States Constitution, the Washington State Constitution, a statute of the United States, or a treaty.

(3) *Conflicting Decisions.* A case involving an issue in which there is a conflict among decisions of the Court of Appeals or an inconsistency in decisions of the Supreme Court.

(4) *Public Issues.* A case involving a fundamental and urgent issue of broad public import which requires prompt and ultimate determination.

(5) *Action Against State Officer.* An action against a state officer in the nature of quo warranto, prohibition, injunction, or mandamus.

(6) *Death Penalty.* A case in which the death penalty has been decreed.

**(b) Service and Filing of Statement of Grounds for Direct Review.** A party seeking direct review of a trial court decision in the Supreme Court must within 15 days after filing the notice of appeal or notice for discretionary review, serve on all other parties and file a short written statement with in the Supreme Court a statement of grounds for direct review in the form provided in section (c), indicating (1) the grounds upon which the party contends direct review should be granted, and (2) whether the case is one which the Supreme Court would probably review if decided by the Court of Appeals in the first instance. In an appeal, the party must file the statement on or before the filing of the party's opening brief. In a proceeding for discretionary review, the party must file the statement with the motion:

**(c) Form of Statement of Grounds for Direct Review.** The statement should be captioned "Statement of Grounds for Direct Review," contain the title of the case as provided in rule 3.4, and contain under appropriate headings and in the order here indicated:

(1) *Nature of Case and Decision.* A short statement of the substance of the case below and the basis for the trial court decision;

(2) *Issues Presented for Review.* A statement of each issue the party intends to present for review; and

(3) Grounds for Direct Review. The grounds upon which the party contends direct review should be granted.

(d) Answer to Statement of Grounds for Direct Review. A respondent may file an answer to the statement of grounds for direct review. In an appeal, the answer should be filed within 14 days after service of the statement on respondent. In a discretionary review, the answer should be filed with any response to the motion for discretionary review.

~~(c)~~(e) Effect of Denial of Direct Review.

(1) Appealable Decision. If the Supreme Court denies direct review of a proceeding trial court decision reviewable as a matter of right, the case will be transferred without prejudice and without costs to the Court of Appeals for determination.

(2) Discretionary Review. A motion for discretionary review in the Supreme Court of a trial court decision may be granted, denied, or transferred to the Court of Appeals for determination. ~~The Supreme Court may transfer to the Court of Appeals for determination a motion filed in the Supreme Court for discretionary review of a trial court decision.~~ If the Supreme Court denies a motion for discretionary review of a trial court decision, the moving party may not file the same motion in the Court of Appeals.

#### Rule RAP 4.3

##### TRANSFER OF CASES BY SUPREME COURT

The Supreme Court, to promote the orderly administration of justice may, on its own initiative, upon certification by the Court of Appeals, or on motion of a party, transfer a case from the Court of Appeals to the Supreme Court or from one division to another division of the Court of Appeals.

#### RAP 5.3(a)

(a) Content of Notice of Appeal. A notice of appeal must (1) be titled a notice of appeal, (2) specify the party or parties seeking the review, (3) designate the decision or part of decision which the party wants reviewed, and (4) name the appellate court to which the review is taken.

The party filing the notice of appeal should attach to the notice of appeal a copy of the written order or judgment from which the appeal is made.

#### RAP 5.5(d), (e), (h)

(d) Answer to Civil Appeal Statement. A respondent must serve on all other parties and file in the Court of Appeals an answer to the civil appeal statement within 7 days after service of the statement on respondent. The answer should include any modifications to the civil appeal statement that the respondent feels are necessary to give the settlement conference judge a fair presentation of the matters material to settlement of the case. To the extent reasonably necessary to meet this objective, the answer should correct any errors in the civil appeal statement, and present any new issues or modify those presented in the civil appeal statement.

(e) Notice of Settlement Conference. The Chief Judge of the Court of Appeals will determine if one or more settlement conferences are appropriate in each civil appeal. The clerk of the Court of Appeals will notify each party if a settlement conference is to be held. The notice will specify the date, time, and place of the conference; the name of the judge, or judge pro tempore, or commissioner who will conduct the conference; and whether the parties are required to attend the conference.

(h) Settlement Conference Order. If the parties agree to settle the case, to limit the issues, or to other matters to promote the prompt and fair disposition of the appeal, the settlement judge or commissioner may enter an order consistent with that agreement. If the settlement conference order fully settles the case, the clerk of the Court of Appeals will immediately issue the mandate to the trial court with directions to enter judgment as indicated in the order. In all other cases the order is binding on the parties during the review proceeding, unless the appellate court otherwise directs on its own initiative or on motion of a party for good cause shown and on those terms the appellate court deems appropriate.

#### RAP 7.2(c), (d), (e), (f), (h)

(c) Enforcement of Trial Court Decision in Civil Cases. In a civil case, except to the extent a judgment or decision has been superseded stayed as provided in rules 8.1 or 8.3, the trial court has authority to enforce any decision of the trial court and a party may execute on any judgment of the trial court. Any person may take action premised on the validity of a trial court judgment or decision until enforcement of the judgment or decision is superseded stayed as provided in rules 8.1 or 8.3.

(d) Attorney Fees and Costs. The trial court has authority to award attorney fees and costs for an appeal in a marriage dissolution, a legal separation, a declaration of invalidity proceeding, ~~and in~~ or an action to modify a decree in any of these proceedings, and in any other action in which applicable law gives the trial court authority to do so.

(e) Postjudgment Motions and Actions To Modify Decision. The trial court has authority to hear and determine (1) postjudgment motions authorized by the civil rules, the criminal rules, or statutes, and (2) actions to change or modify a decision that is subject to modification by the court that initially made the decision. The postjudgment motion or action shall first be heard by the trial court, which shall decide the matter. If the trial court determination will change a decision then being reviewed by the appellate court, the permission of the appellate court must be obtained prior to the formal entry of the trial court decision. A party should seek the required permission by motion. The decision granting or denying a postjudgment motion may be subject to review. A party may only obtain review of the decision on the postjudgment motion by initiating a separate review in the manner and within the time provided by these rules. If review of a postjudgment motion is accepted while the appellate court is reviewing another decision in

the same case, the appellate court may on its own initiative or on motion of a party consolidate the separate reviews as provided in rule 3.3(b).

(f) **Release of Defendant in Criminal Case.** In a criminal case, the trial court has authority, subject to RCW 9.95.062 and .064, to fix conditions of release of a defendant and to revoke a suspended or deferred sentence.

(h) **Supersedeas, Stay, and Bond.** The trial court has authority to act on matters of supersedeas, stays, and bonds as provided in rules 8.1 and 8.4, CR 62(a), (b), and (h), and RCW 6.08 6.17.040.

### Rule RAP 8.1

#### SUPERSEDEAS IN THE TRIAL COURT PROCEDURE

(a) **Application of Civil Rules.** This rule provides a means of delaying the enforcement of a trial court decision in a civil case in addition to the means provided in CR 62(a), (b), and (h).

(b) **Supersedeas by Bond or Other Security: Procedure To Stay Enforcement of Trial Court Decision.** Enforcement of a trial court decision may be stayed during an appeal through the following procedures:

(1) **Money Judgment.** Except when prohibited by statute, a party may supersede the obtain a stay of enforcement of a money judgment or decision affecting property by filing a supersedeas bond executed by one or more sureties approved by in the trial court. The bond must be conditioned for the satisfaction of the judgment in full together with interest and costs, and the satisfaction in full of any probable modification of the judgment by the appellate court. If a party seeks to supersede only part of a decision, the bond amount shall be adjusted to accomplish the purpose desired. The trial court may authorize a party to post security other than a bond. The money judgment or decision is superseded only as to the party furnishing the bond or other security. The amount of the bond shall be the amount of the judgment, plus interest likely to accrue during the pendency of the appeal and attorney fees and costs likely to be awarded on appeal. However, if a party seeks to stay enforcement of only part of the judgment, or all or part of the judgment is secured by other means, the bond shall be fixed at such sum as the trial court determines is appropriate to fully secure any loss which a party may suffer as a result of the party's inability to enforce the judgment during review.

(1) **Money Judgment.** If the judgment is for the recovery of money not wholly secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied and unsecured, together with interest thereon, unless the court, after notice and hearing and for good cause shown, fixes a different amount.

(2) **Decision Affecting Property.** If the decision determines the disposition of property in controversy, or if the property is in the custody of the sheriff, or if the proceeds of the property or a bond for its value are in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure any money judgment plus the amount of loss

which a party may be entitled to recover as a result of the inability of the party to enforce the judgment during review. Except where prohibited by statute, a party may obtain a stay of enforcement of a decision affecting the rights to possession, ownership or use of real property or tangible or intangible personal property, if it is reasonably possible to quantify the loss which would be incurred by the prevailing party in the trial court as a result of the party's inability to enforce the decision during review. A party may obtain a stay of enforcement of such a decision by filing a supersedeas bond in the trial court. The amount of the bond shall be the amount of any money judgment entered by the trial court plus the amount of the loss which the prevailing party in the trial court would incur as a result of the party's inability to enforce the judgment during review. However, if the property at issue has significant monetary value, the value of the property itself may be considered by the trial court as fully or partially securing any such loss and the amount of the bond may be fixed accordingly, or the court may determine that no bond need be filed. Ordinarily, the amount of loss will be equal to the reasonable value of the use of the property during review.

(3) **Other Civil Cases.** Except where prohibited by statute, in other civil cases, including cases involving equitable relief ordered by the trial court, the appellate court has authority, before or after acceptance of review, to stay enforcement of the trial court decision upon such terms as are just. The appellate court ordinarily will condition such relief from enforcement of the trial court decision on the furnishing of a supersedeas bond or other security. In evaluating whether to stay enforcement of such a decision, the appellate court will consider: (i) whether the moving party can demonstrate that debatable issues are presented on appeal and (ii) a comparison of the injury that would be suffered by the moving party if a stay were not imposed with the injury that would be suffered by the nonmoving party if a stay were imposed. The party seeking such relief should use the motion procedure provided in Title 17.

(4) **Alternate Security.** The trial court or appellate court may authorize a party to post security other than a bond. The effect of doing so is equivalent to the filing of a supersedeas bond.

(c) **Effect of Filing Bond or Other Security.** Upon filing a supersedeas bond or other security, enforcement of a trial court decision against a party furnishing the bond or other security is stayed during an appeal, unless otherwise ordered by the trial court or appellate court.

(d) **Objection to Supersedeas Bond.** A party may object to the sufficiency of an individual surety on a bond, to the form of a bond, or to the amount of a bond by a motion in the trial court made within 7 days after the party making the motion is served with a copy of the bond and any supporting affidavits, if required. If the trial court determines that the bond is improper in form or amount, or that the net worth of an individual surety is inadequate, stay of enforcement of the trial court decision may be preserved only by the furnishing of a proper bond or supplemental bond within 7 days after the entry of the order declaring the bond deficient.

~~(c)~~**(e) Supersedeas by Party Not Required To Post Bond.** If a party is not required to post a bond, that party shall file a notice that the decision is superseded without bond and, after filing the notice, the party shall be in the same position as if the party had posted a bond pursuant to the provisions of this rule.

~~(d)~~**(f) Periodic Payments.** If the judgment or decision provides for periodic payments, the trial court may deny or allow supersedeas in its discretion.

~~(e)~~**(g) Modification of Supersedeas Decision.** After a supersedeas bond or other security has been approved and filed, the trial court may, upon application of a party or on its own motion, and for good cause shown, discharge the bond, change the amount of the bond or other security or require a new bond or other security.

~~(f)~~**Objection to Supersedeas Decision.** ~~(h)~~**Appeal of Supersedeas Decision.** A party may object to a supersedeas decision of the trial court by motion in the appellate court.

**Rule RAP 8.2**

**RELEASE OF DEFENDANT OR JUVENILE DURING REVIEW APPLICATION TO CRIMINAL OR JUVENILE CASES**

**(a) Release or Stay of Execution of Sentence Not Governed by These Rules.** The conditions under which a defendant in a criminal case or a juvenile in a juvenile offense proceeding may be released pending review, or may obtain a stay of execution of sentence, are set forth in the criminal rules, juvenile court rules, and in statutes.

**(b) Objection to Decision.** A party may object to a trial court decision relating to release of a defendant or a juvenile, or relating to a stay of execution of sentence, during a review of a criminal case or a juvenile offense proceeding by motion in the appellate court.

**Rule RAP 8.3**

**APPELLATE COURT ORDERS NEEDED FOR EFFECTIVE REVIEW**

Except when prohibited by statute, the appellate court has authority to issue orders, before or after acceptance of review or in an original action under Title 16 of these rules, to insure effective and equitable review, including authority to grant injunctive or other relief to a party. The appellate court will ordinarily condition the order on furnishing a bond or other security. A party seeking the relief provided by this rule should use the motion procedure provided in Title 17.

**Rule RAP 8.4**

**BOND WITH INDIVIDUAL SURETIES—JUSTIFICATION—REQUIREMENTS—QUALIFICATIONS—ENCUMBRANCE**

**(a) Scope of Rule Who May Be Surety.** An individual who is a resident of this state or a surety company authorized to conduct a surety business in this state may be a surety on a bond; ~~except that a A~~ party may not act as a surety. ~~This rule applies to justification of and objection to a surety on a bond given pursuant to rule 8.1 or~~

~~8.3, but only if the surety is a person other than a surety company authorized to transact surety business in this state.~~

**(b) Justification Qualifications.** The bond given by an individual surety must be accompanied by an affidavit signed by ~~each surety~~ the individual affirming that (1) the surety is a resident of this state, and (2) the surety alone has or, if two or more individuals together are acting as sureties, then the sureties together have a net worth, excluding property exempt from execution, consisting of assets located in this state, at least equal to at least twice the penalty in the bond. The affidavit must contain a description of the assets and liabilities of the surety reasonably sufficient to identify them and state the values or amounts thereof. Any party may obtain discovery from another party or the surety or sureties concerning the values and amounts of assets and liabilities stated in the affidavit.

~~(c) Objection.~~ A party may object to the sufficiency of the surety on the bond or the form of the bond by a motion in the trial court made within 7 days after the party making the motion is served with the bond and the supporting affidavit or affidavits. If the trial court determines that the bond is improper as to form or that the net worth of the surety is inadequate, the supersedeas or other order conditioned upon the posting of the bond may be preserved only by furnishing a proper new bond within 7 days of the entry of the order declaring the first bond deficient. [Reserved. See rule 8.1(d).]

**(d) Encumbrance of Property.** The court may order an individual who is a surety on a bond to encumber his or her property, or to take other action to ensure recourse to the property to satisfy the bond.

**Rule RAP 9.5**

**FILING AND SERVICE OF REPORT OF PROCEEDINGS—OBJECTIONS**

**(a) Generally.** The party seeking review must file the report of proceedings with the clerk of the trial court within ~~60~~ 90 days after review is accepted by the appellate court, except that the court reporter must file a verbatim report of proceedings. The party who caused a report of proceedings to be filed should at the time of filing the report of proceedings serve one copy on an adverse party and serve and file proof of the service on all other parties.

**(b) Filing and Service of Verbatim Report of Proceedings.** If a verbatim report of proceedings cannot be completed within ~~60~~ 90 days after review is accepted by the appellate court, the court reporter shall, no later than 10 days before the report of proceedings is due to be filed, submit an affidavit stating the reasons for the delay to the party who filed the statement of arrangements; the party should move for an extension of time from the appellate court. The clerk will notify the parties of the action taken on the motion. When the court reporter files the verbatim report of proceedings, the reporter shall provide a copy to the party who has arranged for transcription and shall serve and file notice of the filing on

all other parties. Failure to timely file the verbatim report of proceedings may subject the court reporter to sanctions.

**(c) Objections to Report of Proceedings.** A party may serve and file objections to, and propose amendments to, a narrative report of proceedings or a verbatim report of proceedings within 10 days after receipt of the report of proceedings or receipt of the notice of filing of the report of proceedings. If objections or amendments to the report of proceedings are served and filed, any objections or proposed amendments must be heard by the trial court judge before whom the proceedings were held for settlement and approval, except objections to the form of a report of proceedings, which shall be heard by motion in the appellate court. The trial court may direct the a party seeking review or a reporter to pay for the expense of any modifications of the proposed report of proceedings. The motion procedure of the court deciding any objections shall be used in settling the report of proceedings.

**(d) Substitute Judge May Settle Report of Proceedings.** If the judge before whom the proceedings were held is for any reason unable to promptly settle questions as provided in section (a), another judge may act in the place of the judge before whom the proceedings were held.

**(e) Use of Copy of Report of Proceedings.** The party who has the right to file the next brief must be given the use of the copy of the report of proceedings. If more than one party has the right to file the next brief, the parties must cooperate in the use of the report of proceedings. When all briefs are filed, the copy of the report of proceedings should be returned to the party who paid for it.

### Rule RAP 9.6

#### DESIGNATION OF CLERK'S PAPERS AND EXHIBITS

**(a) Generally.** The party seeking review should, within 30 15 days after review is accepted, serve on all other parties and file with the trial court clerk and the appellate court clerk a designation of those clerk's papers and exhibits the party wants the trial court clerk to transmit to the appellate court. Any other party may in the same manner designate additional clerk's papers or exhibits for transmittal to the appellate court. Any party may supplement the designation of clerk's papers and exhibits prior to or with the filing of the party's last brief. Thereafter, a party may supplement the designation only by order of the appellate court, upon motion. Each party is encouraged to designate only clerk's papers and exhibits needed to review the issues presented to the appellate court.

#### **(b) Contents and Format.**

**(1) The clerk's papers shall include, at a minimum:**

**(A) the notice of appeal;**  
**(B) the indictment, information, or complaint in a criminal case;**

**(C) any written order or ruling not attached to the notice of appeal, of which a party seeks review;**

**(D) the final pretrial order, or the final complaint and answer or other pleadings setting out the issues to be**

**tried if the final pretrial order does not set out those issues;**

**(E) any written opinion, findings of fact or conclusions of law; and**

**(F) any jury instruction given or refused which presents an issue on appeal.**

**(2) The trial court clerk shall number the papers sequentially from beginning to end, including any supplemental clerk's papers, regardless of which party designated them.**

### Rule RAP 9.12

#### SPECIAL RULE FOR ORDER ON SUMMARY JUDGMENT

On review of an order granting or denying a motion for summary judgment the appellate court will consider only evidence and issues called to the attention of the trial court. A party should designate in the The order granting or denying the motion for summary judgment shall designate the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered. Documents or other evidence called to the attention of the trial court but not designated in the order shall be made a part of the record by supplemental order of the trial court or by stipulation of counsel.

### RAP 10.2(c), (b), (i)

**(c) Brief of Respondent in Criminal Case.** The brief of a respondent in a criminal case should be filed with the appellate court within 60 days after service of the brief of appellant or petitioner or, if a defendant files a pro se supplemental brief, within 30 days after service of the pro se supplemental brief. If a pro se supplemental brief is filed the state shall, within 30 days after receiving service, file a supplemental response addressing any of the issues raised in the pro se supplemental brief or stating that no response is necessary.

**(h) Service of Briefs.** At the time a party files a brief, the party should serve one copy on every other party and on any amicus curiae, and file proof of service with the appellate court. Service and proof of service should be made in accordance with rules 18.5 and 18.6.

**(i) Sanctions for Late Filing and Service.** The appellate court will ordinarily impose sanctions under rule 18.9 for failure to timely file and serve a brief.

### RAP 10.4(a), (b)

**(a) Typing and Filing Brief.** One legible, clean, and reproducible copy of the brief must be filed with the appellate court. The brief should be typed with in black ribbon on 20-pound substance 8½- by 11-inch white paper. Type must be pica type or its equivalent, with no more than 10 characters an inch. Lines should not generally exceed 5 inches in length. Margins 2 inches on the left side and 1½ inches on the right side and on the top and bottom of each page are preferred. Lines should be double spaced. Quotations may be single spaced and footnotes should be single spaced.

(b) **Length of Brief.** A brief of appellant, petitioner, or respondent, and a pro se brief in a criminal case should not exceed 50 pages. A reply brief should not exceed 25 pages. An amicus curiae brief, or answer thereto, should not exceed 20 pages. For the purpose of determining compliance with this rule appendices, the title sheet, table of contents, and table of authorities are not included. For compelling reasons the court may grant a motion to file an over-length brief.

**RAP 10.5(b), (c)**

(b) **Service Distribution of Brief.** A party filing a brief must serve it in accordance with rules 10.2(h) and 18.5(a). The time for filing the next brief shall run from the time the preceding brief is served. In addition, after the briefs filed by the parties are reproduced, the clerk will serve send two copies of each brief on to each party and one each on to the defendant in a criminal case and on to any amicus curiae. The clerk will also send five copies of each brief to the Washington State Law Library.

(c) **Service and Notice to Defendant in Criminal Case.** In a criminal case, the clerk will, at the time of ~~service~~ filing of the brief, serve the defendant with a notice and form as provided in rule 10.1(d).

**RAP 12.4(a)**

(a) **Generally.** A party may file a motion for reconsideration only of (1) a decision terminating review which is not a ruling of the appellate court commissioner or clerk, or (2) a decision by the judges granting or denying a personal restraint petition on the merits. The motion should be in the form and be served and filed as provided in rules 17.3(a), 17.4(a) and (g), and 18.5, except as otherwise provided in this rule.

**RAP 12.5(b)**

(b) **When Mandate Issued by Court of Appeals.** The Clerk of the Court of Appeals issues the mandate for a Court of Appeals decision terminating review upon stipulation of the parties that no motion for reconsideration or petition for review will be filed. In the absence of that stipulation, and except to the extent the mandate is stayed as provided in rule 12.6, the clerk issues the mandate:

(1) ~~Twenty~~ Thirty days after the decision is filed, unless (i) a motion for reconsideration of the decision has been earlier filed, (ii) a petition for review to the Supreme Court has been earlier filed, or (iii) the decision is a ruling of the commissioner or clerk and a motion to modify the ruling has been earlier filed.

(2) If a motion for reconsideration is timely filed and denied, 30 days after filing the order denying the motion for reconsideration, unless a petition for review to the Supreme Court has been earlier filed.

(3) If a petition for review has been timely filed and denied by the Supreme Court, upon denial of the petition for review.

**RAP 13.4(a), (d), (f), (h), (i)**

(a) **How To Seek Review.** A party seeking discretionary review by the Supreme Court of a Court of Appeals decision terminating review must file a petition for review in the Court of Appeals within 30 days after an order is filed denying a timely motion for reconsideration of all or any part of that decision. If no motion for reconsideration of all or part of the Court of Appeals decision is made, a petition for review must be filed within 30 days after the decision is filed.

(d) **Answer and Reply.** A party may file an answer to a petition for review, ~~or a reply to an answer.~~ If a party wants to raise an issue which is not raised in the petition for review, that party must raise that new issue in an answer. Any answer should be filed within 15 30 days of after the service on the party of the petition. A party may file a reply to an answer only if the answer raises a new issue. A reply to an answer should be filed within 15 days after the service on the party of the answer. The Supreme Court may call for an answer or a reply to an answer.

(f) **Length.** The petition for review, answer, or reply should not exceed 20 pages if double spaced ~~or 15 pages if 1½ spaced~~, excluding appendices.

(h) **Amicus Curiae Memoranda.** The Supreme Court may grant permission to file an amicus curiae memorandum in support of or opposition to a pending petition for review. The motion to file such a memorandum should comply generally with rules 10.4 and 10.6. Absent a showing of particular justification, an amicus curiae memorandum should be filed and served on the parties at least 20 days prior to the date set for consideration of the petition for review.

~~(h)(i)~~ **No Oral Argument.** The Supreme Court will decide the petition without oral argument.

**RAP 13.5(c)**

(c) **Motion Procedure.** The procedure for and the form of the motion for discretionary review is as provided in Title 17. A motion for discretionary review under this rule, and any response, should not exceed 20 pages double spaced, excluding appendices.

**Rule RAP 13.6**

**ACCEPTANCE OF REVIEW**

The Supreme Court accepts discretionary review of a decision of the Court of Appeals by granting a motion for discretionary review or by granting a petition for review. Upon accepting discretionary review, the Supreme Court may specify the issue or issues as to which review is granted.

**RAP 13.7(a), (d), (e)**

(a) **Procedure.** The procedure in the Supreme Court, after acceptance of review of a decision of the Court of Appeals, is the same as the procedure in the Supreme

Court after acceptance of review of a trial court decision, except that (1) the record in the Court of Appeals is the record on review in the Supreme Court, and (2) only the briefs filed in the Court of Appeals and the documents submitted in connection with the motion for discretionary review or petition for review will be considered by the Supreme Court, unless additional briefs are submitted by the parties in accordance with sections (d) and (e) of this rule or are requested by the Supreme Court.

**(d) Supplemental Briefs, Authorized.** Within 30 days after the acceptance by the Supreme Court of a petition for review, any party may file and serve a supplemental brief in accordance with these rules. No response to a supplemental brief may be filed or served except by leave of the Supreme Court.

**(e) Supplemental Briefs, Special Requirements.**

**(1) Form.** Except as to length, a supplemental brief should conform to rules 10.3 and 10.4 and should be captioned "supplemental brief of (petitioner/respondent—name of party)."

**(2) Length.** A supplemental brief should not exceed 20 double spaced pages. The title sheet, appendices, table of contents and table of authorities are not included in this page limitation. For compelling reasons the court may grant a motion to file an over-length brief.

**(3) Filing and Service.** A supplemental brief should be filed and served in accordance with rule 10.2.

**RAP 14.3(a), (b)**

**(a) Generally.** Only statutory attorney fees and the reasonable expenses actually incurred by a party for the following items which were reasonably necessary for review may be awarded to a party as costs: (1) preparation of the original and one copy of the report of proceedings, (2) copies of the clerk's papers, (3) preparation of an a brief or other original document to be reproduced by the clerk, as provided in rule 14.3(b), (4) transmittal of the record on review, (5) bonds given in connection with the review, (6) the lesser of the charges of the clerk for reproduction of briefs, petitions, and motions, or the costs incurred by the party reproducing briefs as authorized under rule 10.5(a), and (7) the filing fee. If a party has incurred an expense for one of the designated items, the item is presumed to have been reasonably necessary for review, which presumption is rebuttable. The amount paid by a party for the designated item is presumed reasonable, which presumption is rebuttable.

**(b) Special Rule for Cost of Preparing Brief or Other Original Document.** The costs awarded for preparing an a brief or other original document is an amount per page fixed from time to time by the Supreme Court. The cost for preparing an a brief or other original document will only be awarded for a brief or document which substantially complies with these rules and only for the actual number of pages of the brief or document including the front cover and appendix. If a brief or document is unreasonably long, costs will be awarded only for a reasonable number of pages.

**RAP 15.4(c)**

**(c) Invoice of Counsel.** An invoice submitted by counsel representing an indigent party should be titled "Invoice of Counsel for Indigent Party." An invoice may be submitted ~~only after oral argument, and not later than 10 days after issuance of the mandate. Counsel may submit only one invoice in the same review proceeding.~~

(1) Upon filing of the appellant's brief for the services performed to that time not to exceed 50 percent of the established fee, and after oral argument and not later than 10 days after the issuance of the mandate, or

(2) Counsel may submit one invoice after oral argument and not later than 10 days after the issuance of the mandate for all the services performed.

(3) The invoice must include a statement of the number of hours spent by counsel preparing the review, the amount of compensation claimed, and the reasonable expenses excluding normal overhead incurred by counsel for the review including travel expenses of counsel incurred for argument in the appellate court. Travel expenses may not exceed the amount allowable to state employees for travel by private vehicle. The invoice must include an affidavit of counsel stating that the items listed are correct charges for necessary services rendered and expenses incurred for proper consideration of the review and that counsel has not received and has not been promised compensation for the review from the indigent party or from any other source except as may have been approved by the court.

**RAP 16.4(d)**

**(d) Restrictions.** The appellate court will only grant relief by a personal restraint petition if other remedies which may be available to petitioner are inadequate under the circumstances and if such relief may be granted under RCW 10.73.090, .100, and .130. No more than one petition for similar relief on behalf of the same petitioner will be entertained without good cause shown.

**RAP 16.10(e)**

**(e) Reproduction and Service of Briefs.** Briefs must be filed with the clerk of the appellate court. Briefs will be reproduced and served by the clerk ~~in accordance with rule 10.5.~~

**RAP 16.16(e)**

**(e) Briefs.**

**(1) Procedure.** The federal court shall designate who will file the first brief. The first brief should be filed within 30 days after the record is filed in the Supreme Court. The opposing party should file the opposing brief within 20 days after receipt of the opening brief. A reply brief should be filed within 10 days after the opposing brief is served. The briefs should be served in accordance with rule 10.2. The time for filing the record, the supplemental record, or briefs may be extended for cause.

**(2) Form and Reproduction of Briefs.** Briefs should be in the form provided by rules 10.3 and 10.4. Briefs will be reproduced and ~~served~~ sent to the parties by the clerk in accordance with rule 10.5.

## RAP 17.3(c)

(c) **Statement of Grounds for Direct Review.** If the motion is for discretionary review of a trial court decision and the party making the motion seeks direct review by the Supreme Court, the party seeking review must also serve and file a separate statement urging grounds for Supreme Court review as provided in rule 4.2(b) and (c).

## RAP 17.4(e)

(e) **Response to Motion.** A person with a recognized interest in the subject matter of the motion may submit a written response to the motion. A response to a motion must be served and filed at least 2 4 days preceding the day of hearing. If service is by mail, the responding party must mail the response at least 5 7 days before the day noted for hearing the motion. The response to a motion within a brief may be made within the brief of the responding party.

## RAP 17.5(c)

(c) **Date and Time of Argument.** Oral argument on a motion to be determined by the clerk or a commissioner of the Court of Appeals will be held on the date and time noted for hearing the motion, unless otherwise directed by the appellate court Court of Appeals. Oral argument on a motion to be determined by the clerk or commissioner of the Supreme Court will be held on the date and time directed by the clerk.

## Rule RAP 18.1

## ATTORNEY FEES AND EXPENSES

(a) **Generally.** If applicable law grants to a party the right to recover reasonable attorney fees or expenses on review, the party ~~should~~ must request the fees or expenses as provided in this rule, unless a statute specifies that the request is to be directed to the trial court.

(b) **Argument in Brief.** The party ~~should~~ must devote a section of the brief to the request for the fees or expenses. The request should not be made in the cost bill. In a motion on the merits pursuant to rule 18.14, the request and supporting argument must be included in the motion if the requesting party has not yet filed a brief.

(c) **Affidavit of Financial Need.** In any action where applicable law mandates consideration of the financial resources of one or more parties regarding an award of attorney fees and expenses, each party must serve upon the other and file a financial affidavit no later than 10 days prior to the time set for oral argument; however, in a motion on the merits pursuant to rule 18.14, each party must serve and file a financial affidavit along with its motion or response.

(d) **Affidavit of Fees and Expenses.** ~~Seven days prior to oral argument;~~ Within 10 days after the filing of a decision awarding a party the right to reasonable attorney fees and expenses, the party ~~should~~ must serve and file an affidavit in the appellate court an affidavit detailing the expenses incurred and the services performed by counsel.

~~(d) Oral Argument.~~ A party should include in oral argument a request for the fee or expenses and a reference to the affidavit on file.

(e) **Objections.** A party may object to items in an affidavit filed pursuant to section (d) by serving and filing objections to the affidavit within 10 days after service of the affidavit upon the party. In a rule 18.14 proceeding, objections to an affidavit of financial need may be served and filed at any time before oral argument.

(f) **Commissioner Awards Fees and Expenses.** A commissioner will determine the amount of the award, and will notify the parties. The determination will be made without a hearing, unless one is requested by the commissioner.

(g) **Objection to Award.** A party may object to the commissioner's award only by motion to the appellate court in the same manner and within the same time as provided in rule 17.7 for objections to any other rulings of a commissioner.

(h) **Transmitting Judgment on Award.** The clerk will include the award of attorney fees and expenses in the mandate or in a supplemental judgment. The award of fees and expenses may be enforced in the trial court.

(i) **Fees and Expenses Determined After Remand.** The appellate court may direct that the amount of fees and expenses be determined by the trial court after remand.

(j) **Fees for Answering Petition for Review.** If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals, and if a petition for review to the Supreme Court is subsequently denied, reasonable attorney fees and expenses may be awarded for the prevailing party's preparation and filing of the timely answer to the petition for review.

## RAP 18.6(a)

(a) **Generally.** In computing any period of time prescribed by these rules, the day of the event from which the time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or ~~day when the appellate court is not open~~ legal holiday, in which case the period extends to the end of the next day which is not a Saturday, Sunday, or ~~day when the court is not open~~ legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

## Rule RAP 18.7

## SIGNING AND DATING PAPERS

Each paper filed pursuant to these rules should be dated and signed by an attorney or party as provided in CR 11, except papers prepared by a judge, commissioner or clerk of court, bonds, papers comprising a record on review, papers which are verified on oath or by certificate, and exhibits. All briefs and motions signed by an attorney shall include the attorney's Washington State Bar Association membership number in the signature block.

RAP 18.9(a), (b)

(a) Sanctions. The appellate court on its own initiative or on motion of a party may order a party or counsel, or a court reporter or other authorized person preparing a verbatim report of proceedings, who uses these rules for the purpose of delay or who fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply. The appellate court may condition a party's right to participate further in the review on compliance with terms of an order or ruling including payment of an award which is ordered paid by the party. If an award is not paid within the time specified by the court, the appellate court will transmit the award to the superior court of the county where the case arose and direct the entry of a judgment in accordance with the award.

(b) Dismissal on Motion of Commissioner or Clerk. The commissioner or clerk, on 30 10 days' notice to the parties, may (1) dismiss a review proceeding as provided in section (a) and (2) except as provided in rule 18.8(b), will dismiss a review proceeding for failure to timely file a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the Court of Appeals, or a petition for review. A party may object to the ruling of the commissioner or clerk only as provided in rule 17.7.

RAP 18.13(e)

(e) Supreme Court Review. A decision by the Court of Appeals on accelerated review that relates only to a juvenile offense disposition is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rule 13.5(a), (b), and (c).

RAP 18.14(c)

(c) Content, Filing, and Service; Response. A motion on the merits should be a separate document and should not be included within a party's brief on the merits. The motion should comply with rule 17.3(a), except that material contained in a brief may be incorporated by reference and need not be repeated in the motion. A motion on the merits should not exceed 25 pages, excluding attachments. The motion should be filed and served as provided in rule 17.4. A response may be filed and served as provided in rule 17.4(e) and may incorporate material in a brief by reference. Requests for attorney fees are governed by rule 18.1.

RAP 18.15(g)

(g) Supreme Court Review. A decision by the Court of Appeals on accelerated review that relates only to an adult sentence is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rule 13.5(a), (b), and (c).

Rule RAP 18.23

MAIL ADDRESSED TO APPELLATE COURTS

All briefs and other papers sent submitted to the Supreme Court and the Court of Appeals to be filed or considered in a case should be addressed to the clerk of the appropriate court and should clearly show, in the brief or paper itself or in a cover letter, (1) the name of the court to which the brief or paper is being submitted, (2) the caption of the case, and (3) the docket number of the case in the appellate court or, if none, the docket number of the case in the trial court and the name of the trial court.

RAP Form 17

PERSONAL RESTRAINT PETITION FOR PERSON CONFINED BY STATE OR LOCAL GOVERNMENT

[Rule 16.7]

C. STATEMENT OF FINANCES

If you cannot afford to pay the \$25 filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.

- 1. I do [ ] do not [ ] ask the court to file this without making me pay the \$25 filing fee because I am so poor I cannot pay the fee.
2. I have \$ \_\_\_\_\_ in my prison or institution account.
3. I do [ ] do not [ ] ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.
4. I am [ ] am not [ ] employed. My salary or wages amount to \$ \_\_\_\_\_ a month. My employer is \_\_\_\_\_

(name and address)

- 5. During the past 12 months I did [ ] did not [ ] get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_ (kind of self-employment)

and the total income I got was \$ \_\_\_\_\_.)

- 6. During the past 12 months, I did [ ] did not [ ] get any rent payments. If so, the total amount I got was \$ \_\_\_\_\_.
[ ] [ ] get any interest. If so, the total amount I got was \$ \_\_\_\_\_.
[ ] [ ] get any dividends. If so, the total amount I got was \$ \_\_\_\_\_.
[ ] [ ] get any other money. If so, the amount of money I got was \$ \_\_\_\_\_.
7. [ ] [ ] have any cash except as said in answer 2. If so, the total amount of cash I have is \$ \_\_\_\_\_.
[ ] [ ] have any savings accounts or checking accounts. If so, the amount in all accounts is \$ \_\_\_\_\_.
[ ] [ ] own stocks, bonds, or notes. If so, their total value is \$ \_\_\_\_\_.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Table with 2 columns: Items, Value

- 9. I am [ ] am not [ ] married. If I am married, my wife or husband's name and address is \_\_\_\_\_

- 10. All of the persons who need me to support them are listed here. Name and Address Relationship Age

Table with 3 columns: Name and Address, Relationship, Age

- 11. All the bills I owe are listed here. Name of creditor Address Amount you owe money to

Table with 3 columns: Name of creditor, Address, Amount

**SUPERIOR COURT  
ADMINISTRATIVE RULES (AR)**

*Table of Rules*

- Rule 2 Case Information Cover Sheet — New Rule  
 Rule 3 One Defendant Per Case — New Rule  
 Rule 4 Presiding Judge, More Than One Judge in Superior Court District — New Rule  
 Rule 5 Offender Financial Information — New Rule

**Rule AR 2 – New Rule**

**CASE INFORMATION COVER SHEET**

Each new civil and domestic case filing shall be accompanied by a Case Information Cover Sheet prepared and submitted by the plaintiff. The minimum requirements of this Case Information Cover Sheet shall be established by the Court Management Council in coordination with the Office of the Administrator for the Courts. Any additional case flow information deemed necessary for the management of cases by a court must be approved by the Office of the Administrator for the Courts.

**Rule AR 3 - New Rule**

**ONE DEFENDANT PER CASE**

For criminal cases involving more than one defendant on a single charging document, a duplicate original of the charging document will be filed for each defendant. Each defendant will receive a unique cause number. All subsequent pleadings related to this defendant for this cause shall be placed in the defendant's case file to assure that the defendant's file represents a complete legal record.

The assignment of a separate cause number to each defendant of those named on a single charging document is not considered a severance. Should a defendant desire that the case be severed, the defendant must move for severance.

**Rule AR 4 – New Rule**

**PRESIDING JUDGE, MORE THAN ONE JUDGE IN  
SUPERIOR COURT DISTRICT**

(a) **Appointment.** By local rule, a superior court district having more than one judge may establish a procedure for the appointment of a judge who shall be known as the Presiding Judge. The judicial business of the district shall be supervised by the Presiding Judge who shall be elected by the judges of the district for a term of not less than 1 year subject to reelection. In the same manner, the judges shall elect another judge of the district to serve as Acting Presiding Judge during the absence or inability of the Presiding Judge to act. Interim vacancies of the office of Presiding Judge and Acting Presiding Judge shall be filled as in the original election described above.

(b) **Notification of Chief Justice.** The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Acting Presiding Judge to the Chief Justice of the Supreme Court on or before March 15 of each year.

(c) **Duties and Authority.** The duties and authority of the Presiding Judge, in addition to exercising general administrative supervision over the court, shall include:

(1) Supervision of the business of the judicial district in such manner as to ensure the expeditious and efficient processing of all cases and equal distribution of the workload among the judges;

(2) Assignment of cases for trial and assignment of judges to departments and motion calendars;

(3) Preparation of a plan for judicial vacations, attendance at education programs, and similar matters;

(4) Responsibility for developing and coordinating statistical and management information;

(5) Exercise general supervision over all court personnel;

(6) Responsibility for accounts and auditing as well as procurement and disbursement and the preparation of the judicial district's annual budget;

(7) Appointment of the standing and special committees of the judges necessary for the proper performance of the duties of the judicial district;

(8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;

(9) Supervision of the preparation and filing of reports required by statute and court rule;

(10) Act as the sole spokesperson for the court in all matters with the county council, county executive, county commissioners and state legislature unless the Presiding Judge shall designate another judge to serve in this capacity;

(11) Other duties as may be assigned by statute or court rule.

(d) **Amendment of Rule.** By local court rule, a superior court district may amend this rule by a two-thirds vote of all elected and sitting judges in the district. Such a local rule may be promulgated no sooner than 2 years after the effective date of this rule.

**Rule AR 5 – New Rule**

**OFFENDER FINANCIAL INFORMATION**

For purposes of monitoring and billing legal financial obligations, information contained in the criminal judgment and docket records of the superior court clerk shall be considered official. The clerk shall provide such information to the Department of Corrections to promote timely satisfaction of offender financial obligations.

**SUPERIOR COURT CIVIL RULES (CR)**

*Table of Rules*

- Rule 11 Signing of Pleadings, Motions, and Legal Memorandum: Sanctions — Revision to Rule  
 Rule 26 General Provisions Governing Discovery — Revision to Rule 26(b)  
 Rule 47 Jurors — Revision to Rule 47(b)  
 Rule 56 Summary Judgment — Revision to Rule 56(h)  
 Rule 62 Stay of Proceedings to Enforce a Judgment — Revision to Rule 62(a)  
 Rule 71 Withdrawal by Attorney — Revision to Rule 71(d)  
 Rule 79 Books and Records Kept by Clerk — Revision to Rule 79(e)

## Rule CR 11

## SIGNING OF PLEADINGS, MOTIONS, AND LEGAL MEMORANDA: SANCTIONS

Every pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record in his the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date his the party's pleading, motion, or legal memorandum and state his the party's address. Petitions for dissolution of marriage, separation, declarations concerning the validity of a marriage, custody, and modification of decrees issued as a result of any of the foregoing petitions shall be verified. Other pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by him the party or attorney that he the party or attorney has read the pleading, motion, or legal memorandum; that to the best of his the party's or attorney's knowledge, information, and belief, formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or legal memorandum is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or legal memorandum is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or legal memorandum, including a reasonable attorney fee.

## CR 26(b)

**(b) Discovery Scope and Limits.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The frequency or extent of use of the discovery methods set forth in section (a) shall be limited by the court if it determines that: (A) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from

some other source that is more convenient, less burdensome, or less expensive; (B) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (C) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under section (c).

(2) *Insurance Agreements.* A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this section, an application for insurance shall not be treated as part of an insurance agreement.

(3) *Structured Settlements and Awards.* In a case where a settlement or final award provides for all or part of the recovery to be paid in the future, a party entitled to such payments may obtain disclosure of the actual cost to the defendant of making such payments. This disclosure may be obtained during settlement negotiations upon written demand by a party entitled to such payments. If disclosure of cost is demanded, the defendant may withdraw the offer of a structured settlement at any time before the offer is accepted.

~~(3)~~(4) *Trial Preparation: Materials.* Subject to the provisions of subsection (b)~~(4)~~(5) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of rule 37(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this section, a statement previously made is (A) a written statement signed or otherwise adopted or approved by the person making it, or (B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is

substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

~~(4)~~(5) *Trial Preparation: Experts.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subsection (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A)(i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and to state such other information about the expert as may be discoverable under these rules. (ii) A party may, subject to the provisions of this rule and of rules 30 and 31, depose each person whom any other party expects to call as an expert witness at trial.

(B) A party may discover facts known or opinions held by an expert who is not expected to be called as a witness at trial, only as provided in rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)~~(4)~~(5)(A)(ii) and (b)~~(4)~~(5)(B) of this rule; and (ii) with respect to discovery obtained under subsection (b)~~(4)~~(5)(A)(ii) of this rule the court may require, and with respect to discovery obtained under subsection (b)~~(4)~~(5)(B) of this rule the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

#### CR 47(b)

(b) *Alternate Jurors.* The court may direct that not more than six jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impaneled, two peremptory challenges if three or four alternate jurors are to be impaneled, and three peremptory challenges if five or six alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror. An alternate juror who does not replace a

regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When an alternate juror is temporarily excused but not discharged, the trial judge shall take appropriate steps to protect such juror from influence, interference or publicity which might affect that juror's ability to remain impartial, and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. An alternate juror may be recalled at any time that a regular juror is unable to serve, provided that the original jury has not returned any verdicts or findings, including a second phase of any trial that is bifurcated. If the jury has commenced deliberations prior to the replacement of a regular juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and to begin deliberations anew.

#### CR 56(h)

(h) *Form of Order.* The order granting or denying the motion for summary judgment shall designate the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered.

#### CR 62(a)

(a) *Automatic Stays.* No Except as to a judgment of a district court filed with the superior court pursuant to RCW 4.56.200, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 5 days after its entry. Upon the filing of a notice of appeal, enforcement of judgment is stayed until the expiration of 14 days after entry of judgment. Unless otherwise ordered by the trial court or appellate court, an interlocutory or final judgment in an action for an injunction or in a receivership action, shall not be stayed during the period after its entry and until appellate review is accepted or during the pendency of appellate review.

#### CR 71(d)

(d) *Withdrawal and Substitution.* Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, Washington State Bar Association membership number, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

#### CR 79(e)

(e) *Destruction of Records.* [Reserved. See RCW 36-.23.065 and GR 15.]

**SUPERIOR COURT  
MANDATORY ARBITRATION RULES (MAR)**

*Table of Rules*

Rule 1.3 Relationship to Superior Court Jurisdiction and Other Rules — Revision to Rule 1.3(b)

**MAR 1.3(b)**

**(b) Which Rules Apply.**

(1) *Generally.* Until a case is assigned to the arbitrator under rule 2.3, the rules of civil procedure apply. After a case is assigned to the arbitrator, these arbitration rules apply except where an arbitration rule states that a civil rule applies.

(2) *Service.* After a case is assigned to an arbitrator, all pleadings and other papers shall be served in accordance with CR 5 and filed with the arbitrator.

(3) *Time.* Except as provided in rule 7.1, time shall be computed in accordance with CR 6(a) and (e).

(4) *Voluntary Dismissal.* The arbitrator shall have the power to dismiss an action, under the same conditions and with the same effect as set forth in CR 41(a), at any time prior to the filing of an award.

**SUPERIOR COURT CRIMINAL RULES (CrR)**

*Table of Rules*

Rule 3.2 Release of Accused — Revision to Rule 3.2(f)  
 Rule 4.2 Pleas — Revision to Rule 4.2(f), (g)  
 Rule 4.4 Severance of Offenses and Defendants — Revision to Rule 4.4(c)  
 Rule 4.10 Material Witness — New Rule  
 Rule 6.5 Alternate Jurors — Revision to Rule  
 Rule 6.12 Witness — Revision to Rule 6.12(c)  
 Rule 7.2 Sentencing — Revision to Rule 7.2(b)  
 Rule 7.4 Arrest of Judgment — Revision to Rule 7.4(b)  
 Rule 7.8 Relief from Judgment or Order — Revision to Rule 7.8(b)  
 Rule 8.4 Service and Filing of Papers — Revision to Rule

**CrR 3.2(f)**

**(f) Release After Finding or Plea of Guilty.** After a person has been found or pleaded guilty, and subject to RCW 9.95.062, 9.95.064, 10.64.025, and 10.64.027, the court may revoke, modify, or suspend the terms of release and/or bail previously ordered.

**CrR 4.2(f), (g)**

**(f) Withdrawal of Plea.** The court shall allow a defendant to withdraw the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court later determines under RCW 9.94A.090 that the agreement is not binding consistent with (1) the interests of justice or (2) the prosecuting standards set forth in RCW 9.94A.430-460, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered. If the motion for withdrawal is made after judgment, it shall be governed by CrR 7.8.

**(g) Written Statement.** A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

SUPERIOR COURT OF WASHINGTON  
FOR \_\_\_\_\_ COUNTY

THE STATE OF WASHINGTON, }  
Plaintiff, }  
v. } No. \_\_\_\_\_  
\_\_\_\_\_ }  
Defendant. } STATEMENT OF  
DEFENDANT ON  
PLEA OF GUILTY

1. My true name is \_\_\_\_\_  
 2. My age is \_\_\_\_\_  
 3. I went through the \_\_\_\_\_ grade in school.  
 4. I have been informed and fully understand that I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is \_\_\_\_\_  
 5. I have been informed and fully understand that I am charged with the crime of \_\_\_\_\_, that the elements of the crime are \_\_\_\_\_, the maximum sentence(s) for which is (are) \_\_\_\_\_ years and \$ \_\_\_\_\_ fine. The standard sentence range for the crime is at least \_\_\_\_\_ and not more than \_\_\_\_\_, based upon my criminal history which I understand the Prosecuting Attorney says to be: \_\_\_\_\_

In addition, I may have to pay restitution, costs, assessments, and recoupment of expenses for defense services provided by the court. I have been given a copy of the information:

6. I have been informed and fully understand that:  
 (a) I have the right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;  
 (b) I have the right to remain silent before and during trial, and I need not testify against myself;  
 (c) I have the right at trial to hear and question witnesses who testify against me;  
 (d) I have the right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;  
 (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;  
 (f) I have the right to appeal a determination of guilt after a trial;  
 (g) If I plead guilty I give up the rights in statements 6(a)-(f).  
 7. I plead \_\_\_\_\_ to the crime of \_\_\_\_\_ as charged in the \_\_\_\_\_ information:

**4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:**  
 (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is \_\_\_\_\_  
 (b) I am charged with the crime of \_\_\_\_\_  
 The elements of this crime are \_\_\_\_\_

**5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:**  
 (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;  
 (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;  
 (c) The right at trial to hear and question the witnesses who testify against me;  
 (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;  
 (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;  
 (f) The right to appeal a determination of guilt after a trial.

**6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:**  
 (a) The crime with which I am charged carries a maximum sentence of \_\_\_\_\_ years imprisonment and a \$ \_\_\_\_\_ fine. The standard sentence range is from \_\_\_\_\_ months to \_\_\_\_\_ months confinement, based on the prosecuting attorney's understanding of my criminal history.  
 (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions in juvenile court for felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.  
 (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ \_\_\_\_\_ as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction of this sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(i) The sentence imposed on counts \_\_\_\_\_ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(j) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(k) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(l) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(m) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(n) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(p) If this crime involves a sex offense, I will be required to register with the sheriff of the county where I reside. I must do this within 30 days after I am released from confinement. If I do not now reside in Washington, I must register within 45 days after I establish residence in this state. If I subsequently move within the county, I must notify the sheriff within 10 days after I establish my new residence. If I move to a new county, I must, within 10 days, notify the sheriffs of both counties. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

7. I plead \_\_\_\_\_ to the crime of \_\_\_\_\_ as charged in the \_\_\_\_\_ information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. I have been informed and fully understand the Prosecuting Attorney will make the following recommendation to the court: \_\_\_\_\_

12. I have been informed and fully understand that the standard sentencing range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions or guilty pleas at juvenile court that are felonies and which were committed when I was 15 years of age or older. Juvenile convictions count only if I was less than 23 years of age at the time I committed this present offense. I fully understand that if criminal history in addition to that listed in paragraph 5 is discovered, both the standard sentence range and the Prosecuting Attorney's recommendation may increase. Even so, I fully understand that my plea of guilty to this charge is binding upon me if accepted by the court, and I cannot change my mind if additional criminal history is discovered and the standard sentence range and Prosecuting Attorney's recommendation increases.

13. I have been informed and fully understand that the court does not have to follow anyone's recommendation as to sentence. I have been fully informed and

fully understand that the court must impose a sentence within the standard sentence range unless the court finds substantial and compelling reasons not to do so. If the court goes outside the standard sentence range, either I or the State can appeal that sentence. If the sentence is within the standard sentence range, no one can appeal the sentence.

14. I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

15. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement: \_\_\_\_\_

16. I have read or have had read to me and fully understand all of the numbered paragraphs above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the court.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: \_\_\_\_\_

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

Prosecuting Attorney

Defendant's Lawyer

The foregoing statement was read by or to the defendant and signed by the defendant in the presence of the defendant's attorney, and the undersigned Judge, in open court. The court finds the defendant's plea of guilty to be knowingly, intelligently and voluntarily made, that the court has informed the defendant of the nature of the charge and the consequences of the plea, that there is a factual basis for the plea, and that the defendant is guilty as charged.

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read; or
 (b) The defendant's lawyer had previously read to him or her; or
 (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Judge

\*I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Interpreter

CrR 4.4(c)

(c) Severance of Defendants.

(1) A defendant's motion for severance on the ground that an out-of-court statement of a codefendant referring to him is inadmissible against him shall be granted unless:

(i) the prosecuting attorney elects not to offer the statement in the case in chief;

(ii) deletion of all references to the moving defendant will eliminate any prejudice to him from the admission of the statement.

(2) The court, on application of the prosecuting attorney, or on application of the defendant other than under subsection (i), should grant a severance of defendants whenever:

(i) if before trial, it is deemed necessary to protect a defendant's rights to a speedy trial, or it is deemed appropriate to promote a fair determination of the guilt or innocence of a defendant; or

(ii) if during trial upon consent of the severed defendant, it is deemed necessary to achieve a fair determination of the guilt or innocence of a defendant.

(3) When such information would assist the court in ruling on a motion for severance of defendants, the court may order the prosecuting attorney to disclose any statements made by the defendants which he intends to introduce in evidence at the trial.

(4) The assignment of a separate cause number to each defendant of those named on a single charging document is not considered a severance. Should a defendant desire that the case be severed, the defendant must move for severance.

#### Rule CrR 4.10 – New Rule

##### MATERIAL WITNESS

(a) **Warrant.** On motion of the prosecuting attorney or the defendant, the court may issue a warrant, subject to reasonable bail, for the arrest of a material witness. The warrant shall issue only on a showing, by affidavit or on the record in open court, that the testimony of the witness is material and that

(1) The witness has refused to submit to a deposition ordered by the court pursuant to rule 4.6; or

(2) The witness has refused to obey a lawfully issued subpoena; or

(3) It may become impracticable to secure the presence of the witness by subpoena.

Unless otherwise ordered by the court, the warrant shall be executed and returned as in rule 2.2.

(b) **Hearing.** After the arrest of the witness, the court shall hold a hearing no later than the next judicial day after the witness is present in the county from which the warrant issued. The witness shall be entitled to be represented by a lawyer. The court shall appoint a lawyer for an indigent witness if it is required to protect the rights of the witness.

(c) **Release/Detention.** Upon a determination that the testimony of the witness is material and that one of the conditions set forth in section (a) exists, the court shall set conditions for release of the witness pursuant to rule 3.2. A material witness shall be released unless the court determines that the testimony of such witness cannot be secured adequately by deposition and that further detention is necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to rule 4.6.

#### Rule CrR 6.5

##### ALTERNATE JURORS

When the jury is selected the court may direct the selection of one or more additional jurors, in its discretion, to be known as alternate jurors. Each party shall be entitled to one peremptory challenge for each alternate juror to be selected. When several defendants are on trial

together, each defendant shall be entitled to one challenge in addition to the challenge provided above, with discretion in the trial judge to afford the prosecution such additional challenges as circumstances warrant. If at any time before submission of the case to the jury a juror is found unable to perform ~~his~~ the duties the court shall order ~~him~~ the juror discharged, and the clerk shall draw the name of an alternate who shall take ~~his~~ the juror's place on the jury.

Alternate jurors who do not replace a regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When jurors are temporarily excused but not discharged, the trial judge shall take appropriate steps to protect alternate jurors from influence, interference or publicity, which might affect that juror's ability to remain impartial and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. Such alternate juror may be recalled at any time that a regular juror is unable to serve, ~~provided that the original jury has not returned any verdicts or findings, including a second phase of any trial that is bifurcated.~~ If the jury has commenced deliberations prior to replacement of an initial juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and begin deliberations anew.

#### CrR 6.12(e)

~~(e) **Material Witnesses.** On motion of the prosecuting attorney or the defendant a witness may be compelled to attend a hearing to determine whether his testimony is material. Upon request, the court shall appoint counsel for a witness who is financially unable to obtain one if it appears to the court, after an offer of proof by the moving party, that the testimony of such witness would tend to incriminate him, or it appears that counsel is required to otherwise fully protect the rights of such witness.~~

#### CrR 7.2(b)

(b) **Procedure at Time of Sentencing.** The court shall, at the time of sentencing, advise the defendant: (1) of the right to appeal the conviction; (2) of the right to appeal a sentence outside the standard sentence range; (3) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; (4) that the superior court clerk will, if requested by the defendant appearing without counsel, supply a notice of appeal form and file it upon completion by the defendant; ~~and~~ (5) of the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal; ~~and~~ (6) of the time limits on the right to collateral attack imposed by RCW 10-73.090 and .100. These proceedings shall be made a part of the record.

#### CrR 7.4(b)

(b) **Time for Motion; Contents of Motion.** A motion for arrest of judgment must be served and filed within

10 days after the verdict or decision. The court on application of the defendant or on its own motion may in its discretion extend the time until such time as judgment is entered.

The motion for arrest of judgment shall identify the specific reasons in fact and law as to each ground on which the motion is based.

#### CrR 7.8(b)

**(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.** On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.6;

(3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) The judgment is void; or

(5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken, and is further subject to RCW 10.73.090, .100, .130, and .140. A motion under section (b) does not affect the finality of the judgment or suspend its operation.

#### Rule CrR 8.4

##### SERVICE, AND FILING, AND SIGNING OF PAPERS

CR 5 shall govern service and filing of written motions (except those heard ex parte) in criminal causes. All pleadings, motions, and legal memoranda signed by an attorney shall include the attorney's Washington State Bar Association membership number in the signature block.

#### RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (RALJ)

##### Table of Rules

Rule 1.2	Interpretation and Application of Rules — Revision to Rule 1.2(b)
Rule 2.1	Who May Appeal — Revision to Rule
Rule 2.2	What May Be Appealed — Revision to Rule 2.2(a)
Rule 7.1	Generally — Revision to Rule
Rule 7.2	Time for Filing Briefs — Revision to Rule 7.2(c)
Rule 9.1	Basis for Decision on Appeal — Revision to Rule 9.1(d), (e), (f), (g)
Rule 10.2	Violation of Rules Generally — Revision to Rule
Rule 11.6	Service and Filing of Papers — Revision to Rule

#### RALJ 1.2(b)

**(b) Application of Rules.** Cases and issues will not be determined on the basis of compliance or noncompliance with these rules, except ~~that a case will be dismissed without a decision on the merits for failure to timely file~~

~~a notice of appeal in the superior court or for want of prosecution of the appeal under rule 10.2(a), and as provided in rule 10.2. A party's right to proceed further in an appeal may be conditioned on compliance with the terms of a sanction order under rule 10.1.~~

#### Rule RALJ 2.1

##### WHO MAY APPEAL

**(a) Appeal.** Only an aggrieved party may appeal.

**(b) Cross Review.** Cross review means review initiated by a respondent in an appeal. A party seeking cross review must file a notice of appeal within the time allowed by rule 2.5(c).

#### RALJ 2.2(a)

**(a) Final Decision.**

(1) A party may appeal from a final decision of a court of limited jurisdiction to which these rules apply under rule 1.1(a), except a decision in a mitigation hearing under RCW 46.63.100 and JTIR 2.6(b).

(2) For the purposes of these rules, a final decision includes (A) an order granting or denying a motion for new trial, reconsideration, or amendment of judgment, and (B) an order granting or denying arrest of a judgment in a criminal case.

#### Rule RALJ 7.1

##### GENERALLY

Each party shall file a brief. The superior court may order a party to file additional briefs or may order that the requirement to file briefs be waived. An appellant may file a reply brief as a matter of right.

**(c) Reply Brief.** A reply brief shall be filed within 14 days of service of the brief to which it responds, or at such other time as the superior court orders. A reply brief shall be filed no later than 7 days before the day set for argument by the superior court.

#### RALJ 9.1(d), (e), (f), (g)

**(d) Final Judgment Not Designated in Notice.** The superior court will review a final judgment not designated in the notice of appeal only if the notice designates an order deciding a timely posttrial motion based on (1) CrRLJ 7.4 (arrest of judgment), (2) CrRLJ 7.5 (new trial), or (3) CRLJ 59 (new trial, reconsideration, and amendment of judgments).

~~(d)~~**(e) Disposition on Appeal Generally.** The superior court may reverse, affirm, or modify the decision of the court of limited jurisdiction or remand the case back to that court for further proceedings.

~~(e)~~**(f) Limitation on Modification of Sentence.** The superior court shall not modify the sentence imposed in a criminal case unless the sentence is incorrect as a matter of law.

~~(f)~~**(g) Form of Decision.** The decision of the superior court shall be in writing and filed in the clerk's office with the other papers in the case. The reasons for the decision shall be stated.

**Rule RALJ 10.2**

**DISMISSAL OF APPEAL**

(a) **Involuntary Dismissal.** The superior court will, on motion of a party or on its own motion after 14 days' notice to the parties, dismiss an appeal of the case (1) except as provided in section (b) of this rule, for failure to timely file a notice of appeal, or (2) for want of prosecution if the party appealing has abandoned the appeal. Unless good cause is shown, an appeal will be deemed abandoned if there has been no action of record for 90 days.

(b) **Extension of Time; Restrictions.** The superior court may, on its own initiative or on motion of a party, extend the time for filing a notice of appeal, but only in extraordinary circumstances and to prevent a gross miscarriage of justice. The superior court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. A motion to extend time is determined by the superior court to which the untimely notice of appeal is directed.

(b)(c) **Voluntary Withdrawal of Appeal.** The superior court may, in its discretion, dismiss an appeal on stipulation of all the parties and, in criminal cases, the written consent of the defendant. The superior court may, in its discretion, dismiss an appeal on the motion of a party who has filed a notice of appeal.

**Rule RALJ 11.6**

**SERVICE, AND FILING, AND SIGNING OF PAPERS**

CR 5 and CrR 8.4 apply to the service and filing of papers under these rules. None of the papers required by these rules to be served are original process. All briefs and motions signed by an attorney shall include the attorney's Washington State Bar Association membership number in the signature block.

**CIVIL RULES**

**FOR**

**COURTS OF LIMITED JURISDICTION (CRLJ)**

*Table of Rules*

- Rule 10 Form of Pleadings — Revision to Rule 10(c)
- Rule 11 Signing of Pleadings — Revision to Rule
- Rule 71 Withdrawal by Attorney — Revision to Rule 71(d)

**CRLJ 10(c)**

(c) **Form.** All notices, pleadings, motions, and other papers filed shall be plainly written or typed, and, except for exhibits and forms approved by the Office of the Administrator for the Courts, the use of letter-size paper (8½ by 11 inches) is mandatory. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

**Rule CRLJ 11**

**SIGNING OF PLEADINGS**

Every pleading of a party represented by an attorney shall be dated and signed by at least one attorney of

record in his the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date his the party's pleading and state his the party's address. Pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by him the party or attorney that he the party or attorney has read the pleading; that to the best of his the party's or attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a willful violation of this rule an attorney may be subjected to appropriate action as for contempt. Similar action may be taken if scandalous or indecent matter is inserted.

**CRLJ 71(d)**

(d) **Withdrawal and Substitution.** Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, Washington State Bar Association membership number, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

**CRIMINAL RULES FOR**

**COURTS OF LIMITED JURISDICTION (CrRLJ)**

*Table of Rules*

- Rule 1.5 Style and Form — Revision to Rule
- Rule 2.2 Warrant of Arrest or Summons Upon Complaint — Revision to Rule 2.2(a), (b)
- Rule 2.5 Procedure on Failure to Obey Citation and Notice — Revision to Rule
- Rule 3.2 Release of the Accused — Revision to Rule 3.2(f) and added Rule 3.2(o)
- Rule 4.2 Pleas — Revision to Rule 4.2(g)
- Rule 7.2 Sentencing — Revision to Rule 7.2(b)
- Rule 7.4 Arrest of Judgment — Revision to Rule 7.4(b)
- Rule 7.5 New Trial — Revision to Rule 7.5(c)
- Rule 7.8 Relief from Judgment or Order — Revision to Rule 7.8(b)
- Rule 8.4 Service and Filing of Papers — Revision to Rule

**Rule CrRLJ 1.5**

**STYLE AND FORM**

The complaint, citation and notice, warrant, summons, motions, briefs, orders, and all other papers or forms required by these rules shall be plainly written, typed or printed. Except for exhibits, and the citation and notice, and forms approved by the Office of the Administrator for the Courts, the use of letter-size paper (8½ by 11 inches) is mandatory. The use of letter-size

copies of exhibits is encouraged if it does not impair legibility. The citation and notice shall be on a form prescribed or approved by the Office of the Administrator for the Courts.

**CrRLJ 2.2(a), (b)**

**(a) Issuance of Warrant of Arrest.** If a complaint is filed and if the offense charged may be tried in the jurisdiction in which the warrant issues, and if the sentence for the offense charged may include confinement in jail, the court may direct the clerk to issue a warrant for the arrest of the defendant unless the defendant has already been arrested in connection with the offense charged and is in custody or has been released on obligation to appear in court. A warrant of arrest must be supported by affidavit, a certificate as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. Subject to constitutional limitations, the finding of probable cause may be based on evidence which is heard in whole or in part.

**(b) Issuance of Summons in Lieu of Warrant.**

(1) *Generally.* If a complaint is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) *When Summons Must Issue.* If the complaint charges the commission of a misdemeanor or a gross misdemeanor, the court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(3) *Summons for Felony Complaint.* If the complaint charges the commission of a felony, the court may direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(4) *Summons.* A summons shall be in writing and in the name of the charging jurisdiction, shall be signed by the clerk with the title of that office, and shall state the date when issued. It shall state the name of the defendant and the nature of the charge, and shall summon the defendant to appear before the court at a stated time and place. The summons shall inform the defendant that failure to appear as commanded may result in the issuance of a warrant for the arrest of the accused.

(5) *Failure To Appear on Summons.* If a person fails to appear in response to a summons, or if delivery is not effected within a reasonable time, a warrant of arrest may issue, if the sentence for the offense charged may include confinement in jail.

**Rule CrRLJ 2.5**

**PROCEDURE ON FAILURE TO OBEY CITATION AND NOTICE**

The court may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear before the court, either in person or by a lawyer, in answer to a citation and notice, or an order of the court, upon which the defendant has promised in writing to appear, or of which the defendant has otherwise received notice to appear, if the sentence for the offense charged may include confinement in jail.

**CrRLJ 3.2(f)**

**(f) Release After Finding or Plea of Guilty.** After a person has been found or pleaded guilty, and subject to RCW 9.95.062, 9.95.064, 10.64.025 and 10.64.027, the court may revoke, modify, or suspend the terms of release and/or bail previously ordered.

**CrRLJ 3.2(o)**

**(o) Forfeitable Fisheries Offenses.** The following offenses shall be forfeitable as a final disposition, in the amounts listed, to include statutory assessments:

WHERE A BAIL AMOUNT IS SHOWN, THE BREAKDOWN IS:		BAIL	60% PSEA	30% PSEA	TOTAL
<b>WAC</b>					
220-118-030(9)	No Hydraulic Approval at Work Site	100	60	30	190
<b>COMMERCIAL LICENSES</b>					
<b>RCW</b>					
75.28.010(2)	No Commercial License on Person	70	42	21	133
75.28.070	Failure To Display License	70	42	21	133
75.28.081	Deleted				
<b>WAC</b>					
220-20-012	Sell Without License on Person	70	42	21	133
<b>COMMERCIAL FOOD FISH</b>					
<b>Commercial Sturgeon</b>					
<b>WAC</b>					
220-20-020(1)	Undersize Sturgeon (per fish)	70	42	21	133
<b>Commercial Salmon</b>					
<b>WAC</b>					
220-20-015(3)	Undersize Salmon	1 fish 70	42	21	133
		2 fish 80	48	24	152
		3 fish 100	60	30	190
		4 fish 120	72	36	228
	Over 4 fish		+38 each fish over		
<b>COMMERCIAL SHELLFISH</b>					
<b>Commercial Clam</b>					
<b>WAC</b>					
220-52-019(7)	Failure To Possess Geoduck Tract Map Aboard Harvest Vessel	70	42	21	133
<b>Commercial Crab</b>					
<b>WAC</b>					
220-20-025(2)	Commercial Possession of Soft Shell Crab Up to 6 Crabs	70	42	21	133
220-52-040(4)	Possession of Female Dungeness Crab Up to 6 Crabs	120	72	36	228
<b>Commercial Crawfish</b>					
<b>WAC</b>					
220-52-060	Possession of Undersize Crawfish Up to 6 Crawfish	70	42	21	133
<b>Commercial Oyster</b>					
<b>WAC</b>					
220-72-073	Failure To Obtain Oyster Transfer Permit	100	60	30	190



CrRLJ 3.2(o)

Rules of Court

Table with 5 columns: Case Number, Description, and four numerical values. Rows include Overpossession (First 15 over limit, More than 15 over limit), Failure To Retain First 15, Razor Clam Gear Violation, Sport Shrimp, Possession Without License, and Overpossession (Up to 10 pounds over limit, 10 to 20 pounds over limit, 20 to 30 pounds over limit, 30 to 40 pounds over limit, More than 40 pounds over).

CrRLJ 4.2(g)

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

STATE OF WASHINGTON
COUNTY OF \_\_\_\_\_
THE STATE OF WASHINGTON,
CITY OR TOWN OF \_\_\_\_\_
Plaintiff,
v.
Defendant.
Case No. \_\_\_\_\_
STATEMENT OF DEFENDANT ON PLEA OF GUILTY

1. My true name is \_\_\_\_\_
2. My age is \_\_\_\_\_
3. I went through the \_\_\_\_\_ grade in school.
4. I have been informed and fully understand that I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is \_\_\_\_\_
5. I have been informed and fully understand that I am charged with the crime(s) of: \_\_\_\_\_
that the elements of the crime(s) are: \_\_\_\_\_
and that the maximum sentence for each crime is: \_\_\_\_\_
I have been informed and fully understand that the crime(s) with which I am charged carries a mandatory minimum sentence(s) of: \_\_\_\_\_
I understand that as a result of this conviction the Department of Licensing must suspend or revoke my driver's license. (If there is no mandatory minimum and no license suspension, the applicable sentences should be stricken and initiated by the judge and the defendant.) I have also been informed and fully understand that the court may as part of my sentence require me to pay costs, fees and assessments authorized by law, and restitution to any victims who lost money or property as a result of crimes I committed and that the maximum amount of such restitution is double the amount of the loss of all victims or double the amount of my gain. I have been given a copy of the complaint or the citation and notice.
6. I have been informed and fully understand that:
(a) I have the right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
(b) I have the right to remain silent before and during trial, and I need not testify against myself.
(c) I have the right at trial to hear and question witnesses who testify against me.
(d) I have the right at trial to testify on my own behalf and to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.
(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
(f) I have the right to appeal a determination of guilt after trial.
(g) If I plead guilty I give up the rights in statements 6(a)-(f).
7. I plead \_\_\_\_\_ to the crime(s) of \_\_\_\_\_ as charged in the complaint or citation and notice.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is \_\_\_\_\_

(b) I am charged with the crime of \_\_\_\_\_
The elements of this crime are \_\_\_\_\_
5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:
(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
(b) The right to remain silent before and during trial, and the right to refuse to testify against myself.
(c) The right at trial to hear and question the witnesses who testify against me.
(d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
(f) The right to appeal a determination of guilt after a trial.
6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:
(a) The crime with which I am charged carries a maximum sentence of \_\_\_\_\_ days in jail and a \$ \_\_\_\_\_ fine.
(b) The crime of \_\_\_\_\_ has a mandatory minimum sentence of \_\_\_\_\_. The law does not allow any reduction of this sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
(c) This plea of guilty will result in suspension or revocation of my driver's license by the Department of Licensing. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
(d) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.
(e) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]
(f) The prosecuting authority will make the following recommendation to the judge: \_\_\_\_\_
(g) The judge does not have to follow anyone's recommendation as to sentence. The judge is completely free to give me any sentence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.
(b) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
7. I plead \_\_\_\_\_ to the crime of \_\_\_\_\_ as charged in the complaint or citation and notice. I have received a copy of that complaint or citation and notice.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. I have been informed and fully understand the prosecuting authority will make the following recommendation to the court: \_\_\_\_\_
12. I have been informed and fully understand that the court does not have to follow the prosecuting authority's recommendation as to sentence. The court is completely free to give me any sentence up to the maximum permitted by law no matter what the prosecuting authority recommends.
13. I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
14. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime(s) in the complaint or citation and notice. This is my statement: \_\_\_\_\_
15. I have read or have had read to me and fully understand all of the numbered sections above (1 through 14) and have received a copy of "Statement of Defendant on Plea of Guilty". I have no further questions to ask of the court.
11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: \_\_\_\_\_
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this

"Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

\_\_\_\_\_  
Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

\_\_\_\_\_  
For the Prosecuting Authority  
Prosecuting Authority

\_\_\_\_\_  
Lawyer for Defendant  
Defendant's Lawyer

The foregoing statement was read by or to the defendant and signed by the defendant in the presence of his or her lawyer and the undersigned Judge in open court. The court finds the defendant's plea of guilty to be knowingly, intelligently and voluntarily made, that the court has informed the defendant of the nature of the charge and the consequences of the plea, that there is a factual basis for the plea, and that the defendant is guilty as charged.

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- \* (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Judge

\*I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Location

\_\_\_\_\_  
Interpreter

**CrRLJ 7.2(b)**

(b) **Procedure at Time of Sentencing.** The court shall, at the time of sentencing, unless the judgment and sentence are based on a plea of guilty, advise the defendant: (1) of the right to appeal the conviction pursuant to RALJ 2.7 or CrRLJ 9.1; (2) that unless a notice of appeal is filed within 14 days after the entry of the judgment and sentence or order appealed from, the right to appeal is waived; (3) that the court clerk will, if requested by the defendant appearing without a lawyer, supply a notice of appeal form; ~~and~~ (4) of the defendant's right to a lawyer, and, if unable to pay the costs thereof, to have a lawyer appointed and portions of the trial record necessary for review of assigned errors prepared at public expense for an appeal; and (5) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. These proceedings shall be made a part of the record.

**CrRLJ 7.4(b)**

(b) **Time for Motion; Contents of Motion.** A motion for arrest of judgment must be served and filed within 5 days after the verdict or decision. ~~The court on application of the defendant or on its own motion may in its discretion extend the time.~~

The motion for arrest of judgment shall identify the specific reasons in fact and law for each ground on which the motion is based.

**CrRLJ 7.5(b)**

(b) **Time for Motion; Contents of Motion.** A motion for new trial must be served and filed within 5 days after the verdict or decision. ~~The court on application of the defendant or on its own motion may in its discretion extend the time.~~

The motion for a new trial shall identify the specific reasons in fact and law ~~as to~~ for each ground on which the motion is based.

**CrRLJ 7.8(b)**

(b) **Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.** On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

- (1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;
- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5;
- (3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) The judgment is void; or
- (5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken, and is further subject to RCW 10.73.090, .100, .130, and .140. A motion under this section does not affect the finality of the judgment or suspend its operation.

**Rule CrRLJ 8.4**

**SERVICE, AND FILING, AND SIGNING OF PAPERS**

(a) **Service: When Required.** Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint or citation and notice, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, application, designation of record on appeal, and similar paper shall be served upon each of the parties.

(b) **Service: How Made.**

(1) **On Lawyer or Party.** Whenever under these rules service is required or permitted to be made upon a party represented by a lawyer the service shall be made upon the lawyer unless service upon the party is ordered by the court. Service upon the lawyer or upon a party shall be made by delivering a copy to the person or by mailing it to the person's last known address. Delivery of a copy within this rule means: handing it to the lawyer or to the party; or leaving it at the person's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual

place of abode with some person of suitable age and discretion then residing therein.

(2) *Service by Mail.*

(i) How Made. CRLJ 5(b)(2)(i) shall govern service by mail.

(ii) Proof of Service by Mail. Proof of service by mail may be by affidavit or certification, under RCW 9A.72-.085 or any law amendatory thereof, of the person who mailed the papers, or by written acknowledgment of service.

(c) **Filing With Court.** The complaint or citation and notice shall be filed as in rule 2.1. All other pleadings required to be served upon a party shall be filed with the court pursuant to CRLJ 5(e).

**(d) Bar Association Membership Number.** All pleadings, motions, and legal memoranda signed by an attorney shall include the attorney's Washington State Bar Association membership number in the signature block.

Codification Tables: 1990 Regular Session Laws—RCW

1990 REGULAR SESSION LAWS

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
1	1	<i>Approp.</i>	409		43.43.745	1402		74.14B.060	23	2	<i>Temporary</i>	140		28A.160.140	
	2	<i>Em.</i>	501		7.68.060	1403		74.14B.070		1	41.04.660	141		28A.160.150	
2	1	<i>Findings</i>	502		7.68.070	1404		18.155.900		2	41.04.665	142		28A.160.160	
		n19.27A.015	503		7.68.080	1405		<i>Sev.</i>		3	41.04.670	143		28A.160.170	
	2	19.27A.015	504		7.68.085			18.155.901		4	28A.400.380	144		28A.160.180	
	3	19.27A.020	601		9.94A.127	1406		<i>Eff. dates</i>		5	<i>Em.</i>	145		28A.160.190	
	4	19.27A.035	602		9.94A.030			<i>Applic.</i>		1	46.16.381	146		28A.160.200	
	5	19.27A.045	603		9.94A.390			18.155.902		25	74.09.520	147		28A.160.220	
	6	19.27A.055	604		13.40.135	4	1	<i>Temporary</i>		2	<i>Em.</i>	148		28A.165.030	
	7	19.27.190	605		13.40.150	5	1	53.08.330		1	<i>Temporary</i>	149		28A.165.040	
	8	4.24.560	606		<i>Eff. date</i>		2	53.08.340		27	19.94.215	150		28A.165.070	
	9	80.28.260			<i>Applic.</i>	6	1	43.131.349		2	<i>Repealer</i>	151		28A.165.080	
	10	82.16.052			n9.94A.127		2	43.131.350		1	46.44.030	152		28A.165.090	
	11	19.27.040	701		9.94A.310	7	1	28B.15.045		29	1	28B.50.835	153		28A.170.020
	12	<i>Repealer</i>	702		9.94A.320	8	1	<i>Findings</i>		2	28B.50.837	154		28A.170.040	
	13	<i>Sev.</i>	703		9.94A.350			n41.50.065		3	28B.50.839	155		28A.170.070	
		n19.27A.015	704		9.94A.400		2	41.50.065		4	28B.50.841	156		28A.170.075	
	14	<i>Eff. dates</i>	705		9.94A.120		3	41.50.110		5	28B.50.843	157		28A.170.080	
		n19.27.040	706		9.94A.360		4	41.40.330		6	28B.52.210	158		28A.170.090	
3	101	13.40.215	707		9.95.009		5	<i>Repealer</i>		7	<i>Leg. dir.</i>	159		28A.170.100	
	102	13.40.217	708		72.09.340		6	28A.400.315		8	<i>Sev.</i>	160		28A.175.030	
	103	13.40.205	801		<i>Findings</i>		7	<i>Contingency</i>			n28B.50.835	161		28A.175.040	
	104	10.77.205			<i>Constr.</i>	9	1	46.20.120		30	1	43.03.050	162		28A.175.050
	105	10.77.207			18.155.010	10	1	80.36.350		2	43.03.060	163		28A.180.010	
	106	10.77.163	802		18.155.020	11	1	9.26A.100		31	1	88.02.095	164		28A.180.030
	107	10.77.165	803		18.155.030		2	9.26A.110		32	1	36.69.010	165		28A.180.060
	108	10.77.210	804		18.155.040		3	9.26A.090		33	1	<i>Purpose</i>	166		28A.180.070
	109	71.05.425	805		18.155.050		4	7.40.230			2	28A.900.100	167		28A.180.080
	110	71.05.427	806		18.155.060		5	<i>Leg. rev.</i>			3	28A.900.101	168		28A.185.020
	111	71.05.325	807		18.155.070		6	<i>Sev.</i>			4	28A.900.103	169		28A.185.040
	112	71.05.390	808		18.155.080			9.26A.900			4	<i>Leg. rev.</i>	170		28A.190.010
	113	71.05.420	809		18.155.090	12	1	43.21F.035		101	28A.150.040	171		28A.190.020	
	114	71.05.440	810		18.130.040		2	43.21F.045		102	28A.150.060	172		28A.190.030	
	115	71.05.670	811		<i>Leg. dir.</i>		3	80.50.030		103	28A.150.100	173		28A.190.040	
	116	<i>Finding</i>	901		9A.44.050		4	80.50.040		104	28A.150.200	174		28A.190.050	
		<i>Policy</i>	902		9A.44.083		5	<i>Temporary</i>		105	28A.150.220	175		28A.190.060	
		n4.24.550	903		9A.44.076		6	<i>Temporary</i>		106	28A.150.230	176		28A.195.010	
	117	4.24.550	904		9A.88.010		7	<i>Temporary</i>		107	28A.150.250	177		28A.195.040	
	118	4.24.555	1001		<i>Findings</i>		8	<i>Temporary</i>		108	28A.150.260	178		28A.200.010	
	119	<i>Temporary</i>			71.09.010		9	<i>Temporary</i>		109	28A.150.280	179		28A.200.020	
	120	71.06.135	1002		71.09.020		10	<i>Temporary</i>		110	28A.150.280	180		28A.205.010	
	121	9.94A.155	1003		71.09.030		11	<i>Temporary</i>		111	28A.150.290	181		28A.205.020	
	122	9.94A.151	1004		71.09.040		12	<i>Eff. date</i>		112	28A.150.350	182		28A.205.030	
	123	9.94A.152	1005		71.09.050			n80.50.030		113	28A.150.360	183		28A.205.040	
	124	9.94A.153	1006		71.09.060		1	18.59.090		114	28A.150.370	184		28A.205.050	
	125	13.50.050	1007		71.09.070	13	2	<i>Repealer</i>		115	28A.150.380	185		28A.205.070	
	126	9.95.140	1008		71.09.080		1	41.06.093		116	28A.150.390	186		28A.205.080	
	127	9.95.145	1009		71.09.090		15	51.52.120		117	28A.150.400	187		28A.205.090	
	128	10.97.030	1010		71.09.100		16	54.16.100		118	28A.150.410	188		28A.210.030	
	129	10.97.050	1011		71.09.110		17	67.28.210		119	28A.150.430	189		28A.210.040	
	130	70.48.100	1012		71.09.120		18	41.45.060		120	28A.155.010	190		28A.210.060	
	131	43.43.765	1013		<i>Leg. dir.</i>		2	41.45.070		121	28A.155.020	191		28A.210.070	
	201	9.92.151	1101		43.43.830		3	<i>Eff. date</i>		122	28A.155.030	192		28A.210.080	
	202	9.94A.150	1102		43.43.832			n41.45.060		123	28A.155.040	193		28A.210.090	
	203	70.48.210	1103		43.43.834		19	15.17.100		124	28A.155.050	194		28A.210.100	
	301	13.40.020	1104		43.43.838		20	15.90.010		125	28A.155.060	195		28A.210.110	
	302	13.40.160	1201		<i>Intent</i>		1	15.90.020		126	28A.155.080	196		28A.210.120	
	303	13.40.110			43.280.010		3	15.90.030		127	28A.155.090	197		28A.210.130	
	304	13.40.210	1202		<i>Vetoed</i>		4	15.90.040		128	28A.155.100	198		28A.210.140	
	305	74.13.075	1203		43.280.020		1	n43.200.220		129	28A.155.110	199		28A.210.160	
	401	<i>Finding</i>	1204		43.280.030		2	82.04.260		130	28A.155.130	200		28A.210.170	
		<i>Policy</i>	1205		43.280.040		3	43.200.170		131	28A.155.140	201		28A.210.180	
		n9A.44.130	1206		43.280.050		4	43.200.220		132	28A.160.010	202		28A.210.190	
	402	9A.44.130	1207		43.280.060		5	43.145.020		133	28A.160.020	203		28A.210.200	
	403	43.43.540	1208		43.280.070		6	43.200.080		134	28A.160.050	204		28A.210.210	
	404	10.01.200	1209		<i>Temporary</i>		7	70.98.085		135	28A.160.070	205		28A.210.220	
	405	72.09.330	1210		<i>Leg. dir.</i>		8	81.04.520		136	28A.160.080	206		28A.210.230	
	406	70.48.470	1301		26.44.140		9	<i>Approp.</i>		137	28A.160.090	207		28A.210.250	
	407	46.20.187	1401		nCh. 26.44		10	<i>Em.</i>		138	28A.160.100	208		28A.210.270	
	408	9A.44.140			Digest		22	72.09.100		139	28A.160.130	209		28A.210.290	

**Codification Tables: 1990 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.												
210		28A.215.020	291		28A.310.460	372		28A.345.030	453		28A.525.154	534		28A.630.320
211		28A.215.030	292		28A.315.010	373		28A.350.010	454		28A.525.156	535		28A.630.330
212		28A.215.050	293		28A.315.020	374		28A.350.020	455		28A.525.162	536		28A.635.010
213		28A.215.110	294		28A.315.030	375		28A.350.040	456		28A.525.164	537		28A.635.050
214		28A.215.180	295		28A.315.060	376		28A.400.010	457		28A.525.166	538		28A.635.070
215		28A.215.200	296		28A.315.080	377		28A.400.020	458		28A.525.168	539		28A.635.080
216		28A.215.310	297		28A.315.100	378		28A.400.030	459		28A.525.170	540		28A.635.090
217		28A.215.330	298		28A.315.110	379		28A.400.110	460		28A.525.174	541		28A.635.100
218		28A.220.020	299		28A.315.120	380		28A.400.150	461		28A.525.176	542		28A.635.110
219		28A.225.010	300		28A.315.140	381		28A.400.200	462		28A.525.178	543		28A.635.120
220		28A.225.030	301		28A.315.150	382		28A.400.300	463		28A.525.180	544		28A.645.010
221		28A.225.040	302		28A.315.170	383		28A.400.320	464		28A.525.182	545		28A.690.010
222		28A.225.050	303		28A.315.180	384		28A.405.040	465		28A.525.200	546		28A.690.020
223		28A.225.060	304		28A.315.200	385		28A.405.050	466		28A.525.214	547		28A.690.030
224		28A.225.070	305		28A.315.210	386		28A.405.100	467		28A.525.216	548		28A.695.010
225		28A.225.080	306		28A.315.230	387		28A.405.140	468		28A.525.218	549		28A.695.030
226		28A.225.090	307		28A.315.300	388		28A.405.150	469		28A.525.220	550		28A.695.040
227		28A.225.100	308		28A.315.310	389		28A.405.160	470		28A.525.222	551		13.04.145
228		28A.225.110	309		28A.315.350	390		28A.405.210	471		28A.525.230	552		18.71.030
229		28A.225.120	310		28A.315.370	391		28A.405.220	472		28A.525.240	553		18.118.010
230		28A.225.130	311		28A.315.390	392		28A.405.230	473		28A.525.260	554		18.120.010
231		28A.225.140	312		28A.315.400	393		28A.405.240	474		28A.525.270	555		19.27.080
232		28A.225.150	313		28A.315.420	394		28A.405.250	475		28A.525.280	556		19.142.010
233		28A.225.180	314		28A.315.500	395		28A.405.300	476		28A.525.290	557		28B.10.025
234		28A.225.200	315		28A.315.510	396		28A.405.310	477		28A.525.300	558		28B.15.543
235		28A.225.210	316		28A.315.550	397		28A.405.320	478		28A.530.020	559		28B.50.873
236		28A.225.230	317		28A.315.560	398		28A.405.330	479		28A.530.050	560		28A.80.245
237		28A.230.010	318		28A.315.570	399		28A.405.350	480		28A.530.060	561		28A.80.360
238		28A.230.080	319		28A.315.580	400		28A.405.370	481		28A.535.020	562		29.13.020
239		28A.230.100	320		28A.315.600	401		28A.405.380	482		28A.535.030	563		29.13.060
240		28A.230.110	321		28A.315.610	402		28A.405.410	483		28A.535.060	564		31.12.125
241		28A.230.160	322		28A.315.620	403		28A.405.450	484		28A.535.080	565		35.13.125
242		28A.235.020	323		28A.315.630	404		28A.405.900	485		28A.540.050	566		35.13.130
243		28A.235.060	324		28A.315.640	405		28A.405.470	486		28A.540.070	567		39.33.070
244		28A.235.090	325		28A.315.650	406		28A.410.040	487		28A.540.080	568		39.34.030
245		28A.235.100	326		28A.315.660	407		28A.410.060	488		28A.545.030	569		41.04.655
246		28A.235.110	327		28A.315.670	408		28A.410.090	489		28A.545.040	570		41.32.011
247		28A.235.120	328		28A.315.680	409		28A.410.100	490		28A.545.060	571		41.59.935
248		28A.240.010	329		28A.315.900	410		28A.410.110	491		28A.545.070	572		41.59.940
249		28A.240.030	330		28A.320.060	411		28A.410.120	492		28A.545.080	573		42.23.030
250		28A.300.010	331		28A.320.080	412		28A.410.160	493		28A.545.090	574		43.17.205
251		28A.300.040	332		28A.320.100	413		28A.410.180	494		28A.545.100	575		43.17.210
252		28A.300.050	333		28A.320.200	414		28A.415.010	495		28A.545.110	576		43.19.455
253		28A.300.060	334		28A.320.210	415		28A.415.020	496		28A.600.010	577		43.43.845
254		28A.300.100	335		28A.320.300	416		28A.505.020	497		28A.600.020	578		43.46.095
255		28A.300.110	336		28A.320.310	417		28A.505.050	498		28A.600.030	579		43.63A.066
256		28A.300.140	337		28A.320.330	418		28A.505.060	499		28A.600.100	580		43.70.900
257		28A.305.010	338		28A.320.430	419		28A.505.070	500		28A.600.130	581		43.79.425
258		28A.305.020	339		28A.320.500	420		28A.505.100	501		28A.600.140	582		43.99H.020
259		28A.305.030	340		28A.325.030	421		28A.505.110	502		28A.600.200	583		43.230.010
260		28A.305.040	341		28A.330.010	422		28A.505.140	503		28A.600.220	584		46.16.035
261		28A.305.050	342		28A.330.020	423		28A.505.150	504		28A.600.240	585		46.61.385
262		28A.305.060	343		28A.330.040	424		28A.505.170	505		28A.610.010	586		46.68.124
263		28A.305.080	344		28A.330.050	425		28A.505.180	506		28A.610.020	587		50.44.050
264		28A.305.090	345		28A.330.060	426		28A.510.250	507		28A.610.030	588		69.50.435
265		28A.305.110	346		28A.330.080	427		28A.510.260	508		28A.615.020	589		71A.20.050
266		28A.305.130	347		28A.330.090	428		28A.510.270	509		28A.615.030	590		71A.20.070
267		28A.305.140	348		28A.330.100	429		28A.520.010	510		28A.620.010	591		72.01.200
268		28A.305.240	349		28A.330.200	430		28A.520.020	511		28A.623.010	592		72.05.130
269		28A.305.250	350		28A.330.210	431		28A.525.060	512		28A.623.020	593		72.20.040
270		28A.310.020	351		28A.330.220	432		28A.525.102	513		28A.625.010	594		74.09.520
271		28A.310.030	352		28A.330.230	433		28A.525.104	514		28A.625.020	595		74.09.524
272		28A.310.110	353		28A.335.030	434		28A.525.106	515		28A.625.040	596		79.01.774
273		28A.310.120	354		28A.335.040	435		28A.525.108	516		28A.625.050	597		84.09.037
274		28A.310.140	355		28A.335.050	436		28A.525.110	517		28A.625.060	598		84.33.010
275		28A.310.150	356		28A.335.070	437		28A.525.112	518		28A.625.070	599		84.33.020
276		28A.310.180	357		28A.335.080	438		28A.525.114	519		28A.625.110	600		84.33.160
277		28A.310.190	358		28A.335.090	439		28A.525.116	520		28A.625.150	601		84.52.0531
278		28A.310.200	359		28A.335.160	440		28A.525.120	521		28A.625.240	602		Leg. rev.
279		28A.310.240	360		28A.335.170	441		28A.525.122	522		28A.630.050	603		Sev.
280		28A.310.250	361		28A.335.180	442		28A.525.124	523		28A.630.060			28A.900.102
281		28A.310.260	362		28A.335.190	443		28A.525.126	524		28A.630.090	34	1	Finding
282		28A.310.290	363		28A.335.260	444		28A.525.128	525		28A.630.110			n 75.25.095
283		28A.310.300	364		28A.335.270	445		28A.525.130	526		28A.630.120		2	75.25.095
284		28A.310.310	365		28A.335.280	446		28A.525.132	527		28A.630.130	35	1	Intent
285		28A.310.330	366		28A.340.010	447		28A.525.134	528		28A.630.150			n 75.25.200
286		28A.310.340	367		28A.340.020	448		28A.525.140	529		28A.630.160		2	75.25.200
287		28A.310.360	368		28A.340.030	449		28A.525.144	530		28A.630.170		3	75.08.011
288		28A.310.390	369		28A.340.040	450		28A.525.146	531		28A.630.210		4	77.32.235
289		28A.310.410	370		28A.340.050	451		28A.525.148	532		28A.630.290		5	Em.
290		28A.310.420	371		28A.340.060	452		28A.525.152	533		28A.630.310	36	1	75.08.255



**Codification Tables: 1990 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
74	1	28A.400.350							120	1	48.44.010		2	<i>Em.</i>
75	1	43.19.554								2	48.44.033	130	1	48.01.050
76	1	48.29.020								3	48.44.035	131	1	35.21.755
	2	48.29.040								4	48.44.037	132	1	<i>Findings</i>
77	1	28A.625.020	102	1	<i>Purpose</i>	116	1	<i>Finding</i>		5	48.44.020			n43.20.240
78	1	<i>Repealer</i>					2	90.48.315		6	48.44.026		2	43.70.130
79	1	11.12.020		2	19.112.005		3	90.48.371		7	48.44.030		3	43.20.240
80	1	51.44.100		3	19.112.010		4	90.48.372		8	48.44.057		4	70.119A.060
	2	<i>Em.</i>		4	19.112.020		5	90.48.373		9	48.44.070		5	80.28.110
81	1	60.04.250		5	19.112.030		6	90.48.374		10	48.44.080		6	80.28.022
82	1	43.200.200		6	19.112.040		7	90.48.375		11	48.44.055		7	<i>Sev.</i>
	2	43.200.210		7	19.112.050		8	90.48.376						n43.20.240
	3	70.98.098		8	19.112.060		9	90.48.377	121	1	48.18.285		8	<i>Em.</i>
	4	70.98.095		9	19.112.070		10	90.48.378		2	<i>Repealer</i>			<i>Findings</i>
	5	<i>Temporary</i>		10	19.112.080		11	<i>Temporary</i>	122	1	11.88.005	133	1	n36.94.140
83	1	18.64.005		11	<i>Sev.</i>		12	90.48.387		2	11.88.010		2	36.94.140
	2	<i>Repealer</i>		12	19.112.901		13	90.48.388		3	11.88.020		3	43.70.190
	3	n18.64.005		11	<i>Short t.</i>		14	90.48.400		4	11.88.030		4	43.70.195
84	1	77.04.010		12	19.112.900		15	90.48.381		5	11.88.040		5	43.70.200
	2	77.04.055			19.112.902		16	90.48.385		6	11.88.045		6	43.155.070
	3	77.12.655	103	1	28A.505.200		17	90.48.320		7	11.88.080		7	43.155.065
	4	77.32.320	104	1	43.110.010		18	90.48.336		8	11.88.090		8	70.119A.040
	5	77.32.340		2	43.110.030		19	90.48.338		9	11.88.095		9	8.25.280
	6	77.32.350		3	82.44.160		20	90.48.350		10	11.88.100		10	70.05.070
	7	77.32.360	105	1	46.37.420		21	90.48.330		11	11.88.105		11	<i>Temporary</i>
	8	<i>Repealer</i>		2	46.37.425		22	90.48.335		12	11.88.107		12	<i>Sev.</i>
85	1	18.85.230		3	46.61.455		23	90.48.355		13	11.88.160			n36.94.140
86	1	<i>Temporary</i>	106	1	43.250.020		24	90.48.360		14	11.88.120		13	<i>Em.</i>
	2	<i>Approp.</i>		2	43.250.030		25	90.48.383		15	11.88.125			<i>Intent</i>
	3	<i>Em.</i>		3	43.250.060		26	88.16.195		16	11.88.130	134	1	31.35.010
87	1	<i>Temporary</i>		4	43.250.070		27	88.16.090		17	11.88.140		2	31.35.020
88	1	28B.15.558		5	43.84.090		28	88.16.100		18	11.88.150		3	31.35.030
89	1	<i>Finding</i>	107	1	54.16.310		29	88.40.005		19	11.92.035		4	31.35.040
		n43.20A.720	108	1	47.17.255		30	88.40.010		20	11.92.040		5	31.35.050
	2	43.20A.720		2	47.17.375		31	88.40.020		21	11.92.043		6	31.35.060
	3	43.20A.725	109	1	81.80.430		32	88.40.030		22	11.92.095		7	31.35.070
	4	43.20A.730		2	<i>Em.</i>		33	<i>Contingency</i>		23	11.92.050		8	31.35.080
	5	<i>Repealer</i>	110	1	<i>Finding</i>		34	<i>Leg. dir.</i>		24	11.92.053		9	31.35.090
	6	<i>Em.</i>			n77.12.710		35	<i>Sev.</i>		25	11.92.056		10	31.35.100
90	1	28A.405.025		2	77.12.710	117	1	n90.48.371		26	11.92.060		11	<i>Sev.</i>
91	1	<i>Purpose</i>		3	<i>Contingency</i>			88.44.005		27	11.92.090		12	31.35.900
		n75.08.460	111	1	61.24.030		2	88.44.010		28	11.92.100		13	<i>Leg. dir.</i>
	2	75.08.460		2	61.24.100		3	88.44.020		29	11.92.110		14	<i>Approp.</i>
	3	<i>Vetoed</i>	112	1	88.16.090		4	88.44.030		30	11.92.115		15	<i>Em.</i>
92	1	68.60.010	113	1	70.94.656		5	88.44.040		31	11.92.130		1	28B.50.140
	2	68.60.020	114	1	70.95C.010		6	88.44.050		32	11.92.140	135	2	<i>Em.</i>
	3	68.60.030		2	70.95C.020		7	88.44.060		33	11.92.150		1	70.88.070
	4	68.60.040		3	70.95C.030		8	88.44.070		34	11.92.160	136	2	42.17.290
	5	68.60.060		4	70.95.720		9	88.44.080		35	11.92.170		3	70.88.080
	6	<i>Leg. dir.</i>		5	70.95C.040		10	88.44.090		36	11.92.180		1	90.62.040
	7	68.04.040		6	70.95C.200		11	88.44.100		37	11.92.185	137	1	<i>Temporary</i>
	8	<i>Leg. rev.</i>		7	70.95C.210		12	88.44.110		38	<i>Eff. date</i>	138	2	<i>Temporary</i>
	9	<i>Repealer</i>		8	70.95C.220		13	88.44.120			n11.88.005		3	<i>Temporary</i>
93	1	43.34.080		9	70.95C.230		14	88.44.130	123	1	81.80.440		4	<i>Approp.</i>
94	1	<i>Finding</i>		10	70.95C.240		15	88.44.140		2	81.80.450		3	<i>Approp.</i>
		n46.37.195		11	70.95E.010		16	88.44.150		3	81.80.460	139	1	<i>Intent</i>
	2	46.37.195		12	70.95E.020		17	88.44.160		4	<i>Em.</i>			n42.17.020
95	1	46.37.430		13	70.95E.030		18	88.44.170	124	1	19.98.100		2	42.17.020
	2	46.37.435		14	70.95E.040		19	88.44.180		2	19.98.110		3	42.17.170
	3	46.63.020		15	70.95E.050		20	88.44.190		3	19.98.120		4	42.17.180
96	1	28A.335.040		16	70.95E.060		21	88.44.200		4	19.98.130		5	42.17.200
97	1	47.17.820		17	70.95E.070		22	88.44.210		5	19.98.140	140	1	2.36.095
98	1	42.30.140		18	70.95E.080		23	88.44.220		6	19.98.150	141	1	82.04.333
99	1	70.58.030		19	70.95E.090		24	<i>Sev.</i>		7	<i>Sev.</i>	142	1	15.74.005
100	1	43.20B.635		20	70.95E.100			88.44.900			19.98.911		2	15.74.010
	2	74.09.180		21	<i>Repealer</i>		25	<i>Eff. dates</i>		8	<i>Leg. dir.</i>		3	15.74.020
	3	43.20B.040		22	<i>Leg. dir.</i>			88.44.901		9	<i>Eff. date</i>		4	15.74.030
	4	43.20B.050		23	<i>Sev.</i>		26	<i>Leg. dir.</i>			19.98.912		5	15.74.040
	5	74.09.290			70.95E.900	118	1	80.36.370		1	66.28.042	125	1	15.74.050
	6	<i>Temporary</i>		24	<i>Em.</i>	119	1	48.46.020		2	66.28.043		7	15.74.060
	7	43.20B.060	115	1	43.88.030		2	48.46.030		3	<i>Exp. date</i>		8	<i>Leg. dir.</i>
	8	43.20B.070		2	90.70.011		3	48.46.040			n66.28.042		9	<i>Sev.</i>
	9	<i>Leg. rev.</i>		3	90.70.045		4	48.46.225		1	44.05.090		10	<i>Em.</i>
	10	<i>Leg. rev.</i>		4	90.70.055		5	48.46.235		1	43.31.556	143	1	29.07.260
	11	<i>Leg. rev.</i>		5	90.70.060		6	48.46.240		1	<i>Vetoed</i>		2	29.07.270
	12	<i>Repealer</i>		6	90.70.070		7	48.46.243		2	70.94.473		3	29.07.280
	13	<i>Applic.</i>		7	90.70.080		8	48.46.245		3	70.94.477		4	29.07.290
		n43.20B.060		8	90.70.090		9	48.46.247		4	70.94.715		5	29.07.300
101	1	28A.230.220		9	90.70.065		10	48.46.420		5	70.94.483		6	46.20.155
	2	28A.230.230		10	90.70.075		11	48.80.030		6	70.94.480		7	29.07.070
	3	28A.230.240		11	43.131.369		12	<i>Repealer</i>		1	<i>Approp.</i>	129	1	29.07.080

**Codification Tables: 1990 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
	9 29.07.140		4 28B.40.361		2 59.21.020	185	1 82.38.080		7 69.04.980
	10 29.07.310	155	1 9.68A.070		3 59.21.030	186	1 2.08.062		8 n69.04.950
	11 29.07.320		2 9.94A.1241		4 59.21.035		2 2.08.065		9 69.04.810
	12 29.85.200		3 <i>Eff. date</i>		5 59.21.050		3 2.32.180		10 <i>Leg. dir.</i>
	13 <i>Eff. date</i>		n9.68A.070		6 59.21.060		4 n2.08.062	203	1 18.44.070
144	n29.07.260	156	1 43.63A.115		7 82.45.090	187	1 <i>Intent</i>		2 62A.3-512
	1 75.10.180		2 <i>Vetoed</i>		8 82.08.065		n48.21.045	204	1 <i>Findings</i>
	2 75.10.190	157	1 70.94.431		9 59.21.080		2 48.21.045		n51.44.170
	3 75.10.200		2 70.94.475		10 59.22.060		3 48.44.023		2 51.44.170
	4 75.10.210		3 <i>Repealer</i>		11 <i>Eff. date</i>		4 48.46.066		3 41.06.490
	5 75.10.030	158	1 <i>Temporary</i>		n59.21.060		5 <i>Temporary</i>		4 28B.16.300
	6 75.10.110		2 <i>Temporary</i>		12 <i>Repealer</i>		6 <i>Sev.</i>		5 51.32.300
	7 75.10.120		3 <i>Temporary</i>	172	1 7.75.035		n48.21.045		6 <i>Eff. date</i>
	8 75.12.090	159	1 28A.310.200		2 3.62.060	188	1 28C.04.015		n51.44.170
145	1 26.33.343	160	1 18.71.095		3 12.40.020		2 28C.04.024	205	1 35.42.200
	2 26.33.345	161	1 28A.315.685		4 <i>Eff. date</i>		3 28C.04.035	206	1-8 <i>Failed to become law. See 1990 c 206 § 6.</i>
	3 26.33.330		2 28A.315.110		n7.75.035		4 28C.04.045		
	4 26.33.340		3 28A.315.660	173	1 <i>Finding</i>		5 28C.10.020		
146	1 26.33.020		4 28A.315.470		n70.98.050		6 28C.10.030		
	2 26.33.160		5 28A.315.580		2 70.98.050		7 28C.10.050	207	1 74.46.481
	3 26.33.190		6 28A.315.590	174	1 59.20.060		8 28C.10.084		2 <i>Em.</i>
	4 26.33.200		7 28A.315.650	175	1 5.44.140		9 28C.10.110	208	1 43.105.005
	5 26.33.300	162	1 41.04.340		2 26.26.040		10 28C.10.120		2 43.105.017
	6 26.33.350	163	1 79.90.210	176	1 43.22.495		11 <i>Temporary</i>		3 43.105.020
	7 26.33.390		2 79.90.215		2 43.63A.460		12 <i>Exp. date</i>		4 <i>Vetoed</i>
	8 43.43.830		3 79.90.240		3 46.12.295		n28C.04.015		5 <i>Vetoed</i>
	9 74.13.031		4 79.96.080		4 <i>Vetoed</i>		13 <i>Em.</i>		6 43.105.041
	10 36.23.090		5 79.96.085	177	1 9.40.100		14 <i>Sev.</i>		7 43.105.052
147	1 18.22.005		6 75.28.287		2 18.160.010		n28C.04.015		8 28A.300.190
	2 18.22.010		7 75.10.140		3 18.160.020	189	1 35.21.747		9 28B.80.600
	3 18.22.013		8 79.01.765		4 18.160.030		2 8.12.020		10 28B.50.242
	4 18.22.014		9 79.96.130		5 18.160.040		3 35.22.280		11 <i>Vetoed</i>
	5 18.22.015	164	1 74.38.070		6 18.160.050		4 35.92.040		12 <i>Temporary</i>
	6 18.22.035	165	1 <i>Vetoed</i>		7 18.160.060	190	1 19.16.100		13 43.105.057
	7 18.22.025		2 26.23.090		8 18.160.070	191	1 2.24.010		14 <i>Vetoed</i>
	8 18.22.040	166	1 64.34.020		9 <i>Vetoed</i>	192	1 41.54.010		15 <i>Vetoed</i>
	9 18.22.060		2 64.34.200		10 18.160.080		2 41.54.030		16 <i>Vetoed</i>
	10 18.22.082		3 64.34.304		11 <i>Leg. dir.</i>		3 41.54.061		17 <i>Em.</i>
	11 18.22.083		4 64.34.352		12 18.160.900		4 41.40.120	209	1 51.14.020
	12 18.22.110		5 64.34.360		13 <i>Eff. date</i>		5 41.54.040		2 51.28.070
	13 18.22.120		6 64.34.364		14 <i>Sev.</i>		6 <i>Repealer</i>		3 <i>Eff. date</i>
	14 18.22.125		7 64.34.372		18.160.902	193	1 35.62.021		n51.14.020
	15 18.22.191		8 64.34.354		1 23B.01.220		2 35.62.031	210	1 46.64.020
	16 18.22.210		9 64.34.400	178	2 23B.01.410		3 35.62.041		2 46.52.020
	17 18.22.230		10 64.34.415		3 23B.01.510		4 <i>Repealer</i>		3 46.20.336
	18 <i>Vetoed</i>		11 64.34.417		4 23B.01.580	194	1 58.17.310		4 46.20.338
	19 <i>Short t.</i>		12 64.34.425		5 23B.14.200	195	1 <i>Findings</i>		5 46.20.342
	18.22.950		13 64.34.440		6 23B.14.340		n77.12.720		6 46.20.420
	20 <i>Repealer</i>		14 64.34.452		7 23B.15.010		2 77.12.720	211	1 19.36.100
148	1 <i>Findings</i>		15 64.34.418		8 23B.15.020		3 77.12.730		2 19.36.120
	n28A.630.070		16 <i>Eff. date</i>		9 23B.15.300		4 77.12.740		3 19.36.110
	2 28A.630.070		n64.34.020		10 23B.06.400		5 <i>Temporary</i>		4 19.36.130
	3 28A.630.075	167	1 43.180.020		11 23B.07.270		6 9.41.070		5 19.36.140
	4 <i>Leg. dir.</i>		2 43.180.300		12 23B.12.010		7 <i>Repealer</i>		6 <i>Eff. date</i>
149	1 <i>Repealer</i>		3 43.180.310		13 <i>Eff. date</i>		8 <i>Approp.</i>		7 19.36.900
150	1 n9A.44.150		4 43.180.320		n23B.01.220	196	1 18.71A.010		7 <i>Leg. dir.</i>
	2 9A.44.150		5 43.180.330		1 11.96.070		2 18.71A.020	212	1 35.24.090
	3 <i>Sev.</i>		6 43.180.340	179	2 11.108.025		3 18.71A.030		2 35.27.130
	n9A.44.150		7 43.180.350		3 11.108.050		4 18.71A.040	213	1 <i>Finding</i>
	4 <i>Em.</i>		8 43.180.360		4 <i>Em.</i>		5 18.71A.050		64.44.005
151	1 70.96A.150		9 <i>Vetoed</i>		1 11.44.066	180	6 18.71A.060		2 64.44.010
	2 70.96A.020		10 <i>Leg. dir.</i>		2 11.56.030		7 18.71A.070		3 64.44.020
	3 70.96A.140	168	1-21 <i>Failed to become law by reason of the rejection of 1990 SJR 8212</i>		3 11.56.280		8 69.50.101		4 64.44.030
	4 74.09.790		1 59.20.060		4 11.62.020		9 <i>Repealer</i>		5 64.44.040
	5 70.96A.090		2 59.20.074		5 11.68.110		10 18.71A.085		6 64.44.050
	6 70.96A.180		3 60.72.010		6 83.110.030		11 18.71.015		7 64.44.060
	7 70.96A.110		4 80.04.130		7 11.02.100		12 18.71.030		8 <i>Temporary</i>
	8 70.96A.120	169	1 80.04.130		8 11.02.110		1 <i>Repealer</i>		9 64.44.070
	9 70.96A.320		2 80.36.420		9 11.02.120	197	1 46.16.045		10 64.44.080
	10 <i>Em.</i>		3 80.36.430	181	1 67.40.030		199	1 19.86.110	11 <i>Applic.</i>
152	1 7.48.050		4 80.36.440		2 67.40.040		200	1 9A.32.030	64.44.900
	2 7.48.052	170	5 80.36.440		3 67.40.045		201	1 <i>Intent</i>	12 69.50.505
	3 7.48.054		6 80.36.460		4 <i>Approp.</i>			n90.58.140	13 69.50.511
	4 7.48A.010		7 80.36.470		5 <i>Leg. dir.</i>	202	1 69.04.950		14 <i>Sev.</i>
	5 7.48A.020		8 80.36.475		1 35.20.200		2 69.04.955		15 <i>Leg. dir.</i>
	6 <i>Sev.</i>		9 n80.36.410	183	1 2.43.030		3 69.04.960		16 <i>Contingency</i>
	n7.48.050		1 <i>Repealer</i>	184	2 <i>Leg. rev.</i>		4 69.04.965		17 <i>Eff. date</i>
153	1 72.01.045		2 59.21.010		1 29.04.200		5 69.04.970		n64.44.010
154	1 28B.15.380	171	1 59.21.010		2 43.135.060		6 69.04.975	214	1 82.27.060

**Codification Tables: 1990 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
215	1	14.08.120		2	70.44.060		5	13.34.130		40	46.20.161	256	1	42.17.310				
216	1	82.24.030		3	35.61.210		6	13.34.150		41	46.20.181		2	42.17.311				
	2	82.24.040		4	84.52.010		7	13.34.180		42	46.20.270	257	1	3.38.070				
	3	82.24.050		5	<i>Repealer</i>		8	13.50.010		43	46.20.285		2	3.38.080				
	4	82.24.110	235	1	88.08.070		9	13.50.100		44	46.20.293		3	<i>Vetoed</i>				
	5	82.24.130		2	88.08.080		10	26.44.115		45	46.20.311		4	<i>Em.</i>				
	6	82.24.250	236	1	9A.36.031		11	<i>Sev.</i>		46	46.20.326	258	1	47.42.020				
	7	<i>Em.</i>	237	1	6.15.020			n13.34.060		47	46.20.342		2	47.42.040				
217	1	46.44.105		2	<i>Sev.</i>		247	1	<i>Vetoed</i>		48	<i>Vetoed</i>		3	47.40.105			
218	1	69.41.120		3	<i>Em.</i>			2	80.36.522		49	46.20.911		4	<i>Finding</i>			
	2	<i>Em.</i>		4	n6.15.020			3	80.36.524		50	46.25.120			n47.40.100			
219	1	<i>Finding</i>	238	1	46.12.030			4	80.36.530		51	46.29.110	259	5	47.40.100			
	n69.41.030			2	46.12.040		248	1	69.50.101		52	46.29.330		1	27.12.040			
	2	69.41.030		3	46.12.050			2	69.50.505		53	46.29.430		2	35A.02.020			
	3	69.50.101		4	46.12.101		249	1	<i>Findings</i>		54	46.29.610		3	35A.02.060			
	4	<i>Em.</i>		5	46.12.120			n2.10.146		55	<i>Vetoed</i>		4	35A.06.040				
220	1	39.44.200		6	46.12.124			2	2.10.146		56	46.61.655		5	35A.07.020			
	2	39.44.210		7	46.70.120			3	41.26.460		57	46.61.685		6	35A.07.050			
221	1	80.36.540		8	<i>Repealer</i>			4	41.32.498		58	46.61.688		7	35A.08.040			
222	1	41.04.205		9	<i>Eff. date</i>			5	41.32.530		59	46.63.020		8	35A.09.020			
	2	41.05.011		n46.12.030				6	41.32.785		60	46.64.048		9	35A.09.040			
	3	41.05.021	239	1	19.118.021			7	41.40.185		61	46.64.020		10	35A.10.030			
	4	41.05.031		2	48.96.005			8	41.40.190		62	46.65.070		11	35A.15.010			
	5	41.05.090		3	48.96.025			9	41.40.188		63	46.70.029		12	52.02.030			
	6	41.05.026		4	48.96.045			10	41.40.660		64	46.70.041		13	52.06.020			
	7	<i>Vetoed</i>		5	48.96.047			11	41.40.270		65	46.70.061		14	52.14.015			
223	1	<i>Temporary</i>		6	48.96.030			12	41.32.497		66	46.70.083		15	53.04.020			
	2	<i>Temporary</i>		7	48.96.040			13	2.10.144		67	46.70.085		16	53.04.080			
	3	<i>Temporary</i>		8	48.96.050			14	41.26.510		68	46.76.040		17	53.04.085			
	4	<i>Exp. date</i>		9	48.96.060			15	41.32.520		69	46.79.010		18	53.04.110			
224	1	83.100.020		10	<i>Leg. dir.</i>			16	41.32.805		70	46.79.020		19	53.12.060			
	2	11.108.010		11	<i>Eff. date</i>			17	41.40.150		71	46.79.070		20	53.46.020			
225	1	11.08.170			48.96.901			18	41.40.700		72	46.80.030		21	56.04.030			
	2	11.08.111	240	1	<i>Finding</i>			19	41.26.470		73	46.82.410		22	56.04.050			
	3	11.08.300		n47.39.070				20	41.32.790		74	46.87.022		23	56.12.015			
226	1	16.52.300		2	47.39.070			21	41.40.670		75	46.87.025		24	56.12.030			
227	1	7.64.010		3	47.39.020			22	<i>Repealer</i>		76	<i>Vetoed</i>		25	56.24.070			
	2	7.64.020	241	1	46.04.400			23	<i>Savings</i>		77	46.87.270		26	56.24.200			
	3	7.64.035		2	46.61.055				<i>Table of dispo.</i>		78	46.90.300		27	57.04.030			
	4	7.64.045		3	46.61.060				n41.32.493		79	82.36.010		28	57.04.050			
	5	7.64.047		4	46.61.235			24	<i>Approp.</i>		80	82.36.190		29	57.12.015			
	6	7.64.050		5	46.61.240		250	1	46.16.301		81	82.38.040		30	57.12.020			
	7	7.64.100		6	46.61.250			2	46.16.305		82	82.38.050		31	57.24.010			
	8	7.64.110		7	46.61.266			3	46.16.309		83	82.38.070		32	57.24.190			
	9	7.64.115		8	46.61.370			4	46.16.309		84	82.38.090		33	68.52.220			
	10	<i>Repealer</i>		9	46.61.375			5	46.16.313		85	82.38.120		34	68.52.250			
	11	<i>Sev.</i>		10	46.37.193			6	46.16.316		86	<i>Repealer</i>		35	68.54.010			
		7.64.901		11	28A.160.115			7	46.16.319		87	<i>Vetoed</i>		36	68.54.020			
228	1	62A.1-201	242	1	67.40.100			8	46.16.323		88	46.61.205		37	68.54.030			
229	1	82.33.010		2	<i>Applic.</i>			9	46.16.327		89	46.01.140		38	70.44.020			
	2	82.33.020		n67.40.100				10	46.16.332		90	88.02.230		39	70.44.040			
	3	41.06.087	243	1	<i>Findings</i>			11	46.16.335		91	73.04.115		40	<i>Repealer</i>			
	4	43.88.020		2	28B.107.005			12	46.16.350		92	<i>Sev.</i>	260	1	<i>Findings</i>			
	5	<i>Leg. rev.</i>		2	28B.107.010			13	<i>Repealer</i>			n46.16.301			n80.36.550			
	6	<i>Temporary</i>		3	28B.107.020			14	10.05.060		93	<i>Eff. dates</i>		2	80.36.5501			
	7	<i>Temporary</i>		4	28B.107.030			15	46.01.030			n46.16.301		3	80.36.550			
	8	<i>Temporary</i>		5	28B.107.040			16	46.01.090		251	1	54.04.070		4	<i>Approp.</i>		
	9	<i>Temporary</i>		6	28B.107.050			17	46.01.100		252	1	36.32.010	261	1	15.13.250		
	10	<i>Temporary</i>		7	28A.405.020			18	46.04.303			2	36.32.055		2	15.13.260		
	11	<i>Temporary</i>		8	<i>Exp. date</i>			19	46.04.304			3	36.32.0552		3	15.13.270		
	12	<i>Eff. date</i>		9	28B.107.900			20	46.04.305			4	36.32.0554		4	15.13.310		
		n41.06.087		10	28A.300.200			21	46.04.330			5	36.32.0556		5	15.13.320		
230	1	43.43.759		10	<i>Leg. dir.</i>			22	46.04.408			6	36.32.0558		6	15.13.335		
	2	43.43.758	244	1	69.50.435			23	46.04.580			7	36.32.070		7	15.13.350		
	3	43.43.754	245	1	50.04.030			24	46.09.030			8	36.16.030		8	15.13.370		
	4	<i>Vetoed</i>		2	50.04.205			25	46.09.080			9	<i>Eff. date</i>		9	15.13.380		
	5	<i>Em.</i>		3	50.04.206			26	46.09.140		253	1	<i>Purpose</i>		10	15.13.410		
231	1	88.12.070		4	50.20.160			27	46.10.050			n43.70.330		11	15.13.420			
	2	88.12.040		5	50.20.190			28	46.10.140			2	43.70.330		12	15.13.440		
	3	88.02.095		6	50.24.110			29	46.12.070			3	43.70.340		13	15.13.470		
	4	<i>Eff. date</i>		7	50.29.025			30	46.12.140			4	70.54.110		14	15.13.490		
	n88.12.070			8	50.29.070			31	46.12.151			5	43.63A.500	262	1	29.62.090		
	<i>Sev.</i>			9	50.44.060			32	46.12.181			6	43.63A.510		2	29.36.070		
	n88.12.070			10	49.30.005			33	46.16.270			7	36.34.135	263	1	10.95.160		
232	1	<i>Finding</i>		11														

**Codification Tables: 1990 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
265	1 47.28.170	18	70.175.130	19	n13.32A.020		See 1990	3	Temporary
266	1 36.78.060	19	70.180.910	20	Sev.		c 284 § 20.	4	Contingency
	2 36.78.070	20	Finding		n13.32A.020	20	Contingency	293	1 47.02.120
	3 36.78.110		48.45.005	21	Contingency	21	Failed to become law.	2	47.02.130
	4 47.26.121	21	48.45.007	277	1 Temporary		See 1990	3	47.02.140
	5 47.01.250	22	48.45.010	2	Temporary		c 284 § 22.	4	47.02.150
267	1 82.24.120	23	48.45.020	3	Approp.		74.13.330	5	47.02.160
	2 82.24.180	24	48.45.030	4	Uncod.	22	Contingency	6	47.02.170
	3 Eff. date	25	Approp.	278	1 Finding	23	74.13.330	7	47.02.180
	n82.24.120	26	Em.		n43.63A.450	24	13.32A.210	8	47.02.190
268	1 Vetoed	27	Leg. dir.	2	43.63A.450	25	13.34.260	9	Leg. dir.
	2 Vetoed	28	70.180.130	3	Vetoed	26	Leg. dir.	10	Sev.
	3 Temporary	29	Leg. dir.	4	Contingency	27	Eff. date		n47.02.120
	4 Vetoed	30	Contingency	5	Leg. dir.		n74.13.250	294	11 Em.
	5 Vetoed	1	Temporary	6	Sev.	28	Failed to become law.	1	52.18.010
	6 Vetoed	2	Temporary		n43.63A.450		See 1990	2	52.18.020
269	1 70.168.010	3	Temporary	7	43.131.367		c 284 § 30.	3	52.18.030
	2 70.168.900	4	Temporary	8	43.131.368		Failed to become law.	4	52.18.040
	3 70.168.050	5	Temporary	279	1 Constr.	29	Failed to become law.	5	52.18.050
	4 70.168.015	6	Temporary		n36.58.090		See 1990	6	52.18.060
	5 70.168.020	7	Sev.	2	Em.		c 284 § 30.	7	52.18.065
	6 18.73.040	8	Exp. date	280	1 Intent		Contingency	8	52.18.070
	7 18.73.050	9	Contingency		n70.54.230	30	13.34.020	9	52.18.080
	8 70.168.060	10	Em.	2	70.54.230	31	13.34.020	10	52.18.090
	9 70.168.070	273	1 36.93.150	3	70.54.240	32	13.34.130	11	Sev.
	10 70.168.080	2	36.93.152	4	70.54.250	33	13.34.190		52.18.901
	11 70.168.090	3	Sev.	5	70.54.260	34	Contingency	295	12 Em.
	12 70.170.100		n36.93.150	6	70.54.270	35	13.04.033	1	90.54.010
	13 70.168.100	4	Em.	7	Leg. dir.	285	1 Findings	2	90.54.030
	14 70.168.110	274	1 Findings	8	Contingency		n74.04.005	3	90.54.045
	15 70.168.120		n41.32.010	281	1 Findings	2	74.04.005	4	Contingency
	16 70.168.130	2	41.32.010		n43.31.205	3	Vetoed	5	Em.
	17 70.168.040	3	41.40.010	2	43.31.205	4	26.33.295	296	1 Purpose
	18 18.71.205	4	41.40.450	3	43.31.215	5	74.13.150		74.09.405
	19 18.71.212	5	41.32.013	4	Approp.	6	Temporary	2	74.09.415
	20 18.71.215	6	41.04.445	282	1 28B.20.462	7	74.13.109	3	Vetoed
	21 18.76.050	7	41.32.350	2	28B.20.464	8	74.13.130	4	74.09.425
	22 18.73.010	8	41.32.403	3	28B.20.466	9	Contingency	5	74.09.435
	23 18.73.030	9	41.32.775	4	28B.20.468	10	Sev.	6	74.09.010
	24 18.73.081	10	41.40.120	5	28B.20.470		n74.04.005	7	Repealer
	25 18.73.130	11	41.40.690	6	28B.20.472	286	1 28A.625.210	8	Leg. dir.
	26 70.168.140	12	41.26.500	7	Leg. dir.	2	Contingency	9	Eff. date
	27 Leg. rev.	13	41.32.800	8	Vetoed	287	1 Findings		n74.09.405
	28 Repealer	14	2.10.155	283	1 84.48.080		28B.108.005	297	1 43.131.010
	29 Leg. dir.	15	41.32.780	2	84.36.043	2	28B.108.010	2	43.131.050
	30 Sev.	16	41.32.005	3	84.36.805	3	28B.108.020	3	18.51.910
	70.168.901	17	Constr.	4	84.36.810	4	28B.108.030	4	18.51.911
	31 Em.		n41.32.010	5	84.52.110	5	28B.108.040	5	18.73.920
	32 Contingency	18	Intent	6	84.36.030	6	28B.108.050	6	18.73.921
270	1 Short t.	19	Applic.	7	84.36.805	7	28B.108.060	7	18.83.910
	43.70.440		n41.40.690	8	Constr.	8	28B.108.070	8	18.83.911
	2 Finding	20	Contingency		n84.36.030	9	Leg. dir.	9	43.31.091
	43.70.400	21	Eff. date	9	Exp. date	10	Vetoed	10	43.31.092
	3 43.70.410	22	n41.32.010		n84.52.110	288	1 28B.80.450	11	18.36A.910
	4 43.70.420		22 Repealer	284	1 Finding	2	Intent	12	18.36A.911
	5 Vetoed	275	1 Vetoed		n74.13.250		28B.101.005	13	18.19.910
	6 43.70.430	1	2 74.13.250	2	74.13.250	3	28B.101.010	14	18.19.911
	7 46.37.530	2	Approp.	3	Contingency	4	28B.101.020	15	18.06.910
	8 46.37.535	3	Approp.	4	74.13.260	5	28B.101.030	16	18.06.911
	9 Leg. dir.	4	n69.50.520	5	Contingency	6	28B.101.040	17	18.74.010
	10 Approp.	5	Temporary	6	Failed to become law.	7	28B.10.569	18	Eff. date
271	1 Finding	6	Repealer		See 1990	8	Leg. dir.	19	18.74.012
	70.180.005	276	1 Intent		c 284 § 7.	9	Repealer	20	43.131.371
	2 70.180.020		n13.32A.020	7	Contingency	289	1 28B.30.630	21	43.131.372
	3 70.180.030	2	13.32A.020	8	74.13.270	2	28B.30.632	22	53.31.910
	4 70.180.040	3	13.32A.030	9	Contingency	3	28B.30.634	23	53.31.911
	5 Finding	4	13.32A.040	10	74.13.280	4	28B.30.636	24	67.16.910
	70.180.007	5	13.32A.050	11	74.13.290	5	Contingency	25	67.16.911
	6 70.180.010	6	13.32A.090	12	74.13.300	6	Leg. dir.	26	Repealer
	7 70.180.050	7	13.32A.120	13	74.13.310	7	28B.30.638	27	Repealer
	8 70.180.060	8	13.32A.130	14	Contingency	290	1 Temporary	28	Leg. rev.
	9 28B.20.500	9	13.32A.140	15	74.13.320	2	Temporary	29	Repealer
	10 70.180.070	10	13.32A.150	16	Failed to become law.	3	Temporary	298	1-38 Par. veto
	11 70.180.080	11	13.32A.160		See 1990	4	Contingency		Omnibus
	12 70.180.090	12	13.32A.192		c 284 § 18.	5	Exp. date		Approp. Act
	13 70.180.100	13	13.32A.194		See 1990	291	1 46.61.500		(Uncod.)
	14 Finding	14	13.32A.196		Failed to become law.	2	Vetoed	39	Finding
	70.180.009	15	13.32A.198		See 1990	3	Vetoed		47.86.010
	15 70.180.110	16	13.32A.250		c 284 § 18.	4	46.61.005	40	47.86.020
	16 70.180.120	17	Temporary		Temporary	292	1 Temporary	41	47.86.030
	17 70.180.900	18	Leg. dir.		Failed to become law.	2	Temporary	42	47.86.040

**Codification Tables: 1990 Regular Session Laws—RCW**

---

<u>Chap.</u>	<u>Sec.</u>	<u>Rev. Code of Wash.</u>
	43	47.86.050
	44	47.86.060
	45	<i>Exp. date</i> 47.86.900
	46	<i>Leg. dir.</i>
	47	<i>Sev.</i> 47.86.901
	48	<i>Em.</i>
299	1-501	<i>Par. veto</i> <i>Omnibus</i> <i>Approp. Act</i> <i>(Uncod.)</i>
	502	<i>Sev.</i>
	503	<i>Em.</i>
300	1	<i>Vetoed</i>
	2	17.28.175
	3	17.28.185
	4	<i>Leg. dir.</i>
	5	<i>Em.</i>
301	1	<i>Finding</i> n28A.300.164
	2	28A.300.164
	3	<i>Vetoed</i>
302	1	<i>Repealer</i>
	2	<i>Vetoed</i>
	3	<i>Vetoed</i>
	4	<i>Vetoed</i>
	5	<i>Vetoed</i>
	6	<i>Vetoed</i>
	7	<i>Vetoed</i>
	8	<i>Vetoed</i>

**Codification Tables: 1990 1st Extraordinary Session Laws—RCW**

**1990 1ST EXTRAORDINARY SESSION LAWS**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
1	1	35.21.300	7	7	<i>Sev.</i>	14	1	<i>Findings</i>	32		43.62.035	
	2	35.21.301			n74.21.020			43.98A.005	33		36.94.040	
	3	54.16.285	8	8	<i>Applic.</i>		2	43.98A.010	34		56.08.020	
	4	54.16.286			n74.21.020		3	43.98A.020	35		57.16.010	
	5	80.28.010	9	9	<i>Em.</i>		4	43.98A.030	36		82.46.010	
	6	80.28.011	7	1	<i>Approp.</i>		5	43.98A.040	37		82.46.030	
	7	<i>Temporary</i>		2	<i>Em.</i>		6	43.98A.050	38		82.46.035	
	8	<i>Temporary</i>	8	1	71.24.035		7	43.98A.060	39		82.46.040	
	9	<i>Em.</i>	9	101	<i>Finding</i>		8	43.98A.070	40		82.46.050	
2	1	26.09.100			n28A.225.220		9	43.98A.080	41		82.46.060	
	2	26.09.170		201	28A.225.220		10	43.98A.090	42		82.02.020	
	3	26.09.175		202	<i>Temporary</i>		11	43.98A.100	43		82.02.050	
	4	<i>Vetoed</i>		203	28A.225.225		12	<i>Sev.</i>	44		82.02.060	
	5	26.19.050		204	28A.225.230			43.98A.900	45		<i>Vetoed</i>	
	6	26.19.070		205	28A.225.270		13	<i>Temporary</i>	46		82.02.070	
	7	26.19.080		206	28A.225.280		14	<i>Leg. dir.</i>	47		82.02.080	
	8	<i>Vetoed</i>		207	28A.225.290		15	1	43.99H.010	48		82.02.090
	9	26.19.090		208	28A.225.300		2	43.99H.020	49		59.18.440	
	10	26.19.100		209	28A.225.310		3	43.99H.080	50		59.18.450	
	11	<i>Vetoed</i>		210	28A.225.320		4	43.99H.030	51		58.17.060	
	12	26.19.110		211	<i>Temporary</i>		5	43.99H.040	52		58.17.110	
	13	26.16.205		301	28A.230.090		6	43.99H.060	53		47.80.010	
	14	<i>Vetoed</i>		401	28A.600.300		7	43.83A.020	54		47.80.020	
	15	74.20A.020		402	28A.600.310		8	43.99E.015	55		47.80.030	
	16	26.09.909		403	28A.600.320		9	43.99F.020	56		47.80.040	
	17	26.18.190		404	28A.600.330		10	75.48.020	57		47.80.050	
	18	26.09.225		405	28A.600.340		11	77.12.203	58		36.81.121	
	19	26.19.020		406	28A.600.350		12	n77.12.203	59		35.77.010	
	20	26.19.040		407	28A.600.360		13	<i>Em.</i>	60		35.58.2795	
	21	74.20A.055		408	28A.600.370		14	<i>Sev.</i>	61		76.09.050	
	22	26.18.210		409	28A.600.380			n43.99H.010	62		76.09.060	
	23	26.09.173		410	28A.600.390		16	101–	63		19.27.097	
	24	26.10.195		411	28A.600.395		801	<i>Omnibus</i>	64		<i>Intent</i>	
	25	26.18.220		412	28A.600.400			<i>Approp. Act</i>			n43.210.010	
	26	26.09.006		413	28B.15.067			<i>(Uncod.)</i>	65		43.210.010	
	27	26.10.015		414	<i>Leg. dir.</i>		802	43.160.070	66		43.210.020	
	28	26.26.065		415	<i>Vetoed</i>		803	<i>Sev.</i>	67		43.63A.560	
	29	<i>Repealer</i>		501	n28A.225.225			n43.160.070	68		43.31.005	
	30	<i>Eff. dates</i>		502	<i>Sev.</i>		804	<i>Em.</i>	69		43.31.035	
		n26.09.100			n28A.225.220		17	1	70		43.63A.065	
	31	<i>Sev.</i>		503	<i>Em.</i>			36.70A.010	71		43.31.097	
		n26.09.100	10	1	28A.625.350		2	36.70A.020	72		<i>Temporary</i>	
3	1	48.04.010		2	28A.625.360		3	36.70A.030	73		43.160.060	
	2	48.17.110		3	28A.625.370		4	36.70A.040	74		43.168.050	
	3	48.17.160		4	28A.625.380		5	36.70A.050	75		<i>Vetoed</i>	
	4	48.17.180		5	28A.625.390		6	36.70A.060	76		<i>Vetoed</i>	
	5	48.17.450		6	<i>Finding</i>		7	36.70A.070	77		43.17.065	
	6	48.17.540			n28A.625.350		8	36.70A.080	78		<i>Vetoed</i>	
	7	48.21.180		7	28A.625.420		9	36.70A.090	79		<i>Vetoed</i>	
	8	48.30.140		8	<i>Vetoed</i>		10	36.70A.100	80		<i>Vetoed</i>	
	9	48.30.150		9	<i>Leg. dir.</i>		11	36.70A.110	81		<i>Vetoed</i>	
	10	48.30.210		10	<i>Sev.</i>		12	36.70A.120	82		43.155.070	
	11	48.30.230			28A.625.900		13	36.70A.130	83		<i>Vetoed</i>	
	12	48.44.240		11	<i>Approp.</i>		14	36.70A.140	84		<i>Vetoed</i>	
	13	48.30.260		1	<i>Intent</i>		15	36.70A.150	85		<i>Contingency</i>	
	14	48.46.350			n28A.400.200		16	36.70A.160	86		36.70A.800	
	15	<i>Repealer</i>		2	28A.400.200		17	36.70A.170	87		<i>Leg. dir.</i>	
4	1	<i>Temporary</i>		3	28A.400.350		18	<i>Vetoed</i>	88		<i>Sev.</i>	
	2	<i>Em.</i>		4	28A.400.270		19	36.70A.180			36.70A.900	
5	1	<i>Purpose</i>		5	28A.400.275		20	36.70A.190	89		36.70A.901	
		n36.32.570		6	28A.400.280		21	43.63A.550				
	2	36.32.570		7	<i>Temporary</i>		22	35.63.125				
	3	82.46.070		8	<i>Leg. dir.</i>		23	35A.63.105				
	4	82.46.040		9	<i>Em.</i>		24	36.70.545				
	5	82.46.060	12	1	13.40.020		25	<i>Vetoed</i>				
6	1	74.21.020		2	71.09.020		26	<i>Vetoed</i>				
	2	74.21.030		3	71.09.030		27	<i>Vetoed</i>				
	3	74.21.040		4	71.09.060		28	<i>Vetoed</i>				
	4	74.21.050		5	<i>Eff. date</i>		29	<i>Vetoed</i>				
	5	74.21.070			n13.40.020		30	35.13.005				
	6	74.21.190	13	1	<i>Approp.</i>		31	35A.14.005				

Codification Tables: 1990 2nd Extraordinary Session Laws—RCW

---

---

1990 2ND EXTRAORDINARY SESSION LAWS

---

<u>Chap.</u>	<u>Sec.</u>	<u>Rev. Code of Wash.</u>
1	1	<i>Finding</i>
		82.14.300
	101	<i>Temporary</i>
	102	82.14.310
	103	82.14.315
	104	82.14.320
	105	82.14.330
	106	<i>Temporary</i>
	201	82.14.050
	202	82.14.060
	203	43.84.090
	204	43.84.092
	205	<i>Applic.</i>
		n82.14.050
	301	63.29.135
	302	63.29.190
	303	<i>Applic.</i>
		n63.29.135
	401	46.16.216
	402	46.20.270
501-525		<i>Failed to become law by reason of the rejection of 1990 HJR 4231</i>
	601	43.135.060
	701	82.14.210
	801	82.44.110
	901	82.14.340
	902	81.104.170
	1001	82.14.301
	1101	<i>Approp.</i>
	1102	<i>Temporary</i>
	1103	42.17.310
	1104	<i>Sev.</i>
		n82.14.300
	1105	<i>Eff. dates</i>
		n84.52.010

**Codification Tables: 1991 Regular Session Laws—RCW**

**1991 REGULAR SESSION LAWS**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
1	1	42.17.310	53	18.29.130	114	18.50.140	175	18.74.023	236	18.89.130				
	2	<i>Em.</i>	54	18.29.140	115	18.50.150	176	18.74.035	237	18.89.140				
2	1	67.40.045	55	18.29.150	116	18.52.020	177	18.74.040	238	18.92.015				
	2	<i>Uncod.</i>	56	18.29.160	117	18.52.060	178	18.74.050	239	18.92.035				
		<i>Approp.</i>	57	18.29.180	118	18.52.070	179	18.74.060	240	18.92.040				
	3	67.40.090	58	18.32.010	119	18.52.100	180	18.74.070	241	18.92.047				
	4	<i>Em.</i>	59	18.32.030	120	18.52.110	181	18.74.090	242	18.92.070				
	5	<i>Sev.</i>	60	18.32.037	121	18.52.130	182	18.74.095	243	18.92.100				
	n67.40.045		61	18.32.040	122	18.52A.020	183	18.74.120	244	18.92.115				
3	1	15.36.425	62	18.32.100	123	18.52A.030	184	18.76.020	245	18.92.120				
	2	16.70.010	63	18.32.110	124	18.52B.050	185	18.78.010	246	18.92.130				
	3	16.70.020	64	18.32.120	125	18.52B.080	186	18.78.050	247	18.92.140				
	4	18.06.010	65	18.32.160	126	18.52B.110	187	18.78.060	248	18.92.145				
	5	18.06.020	66	18.32.170	127	18.52B.120	188	18.78.080	249	18.104.040				
	6	18.06.030	67	18.32.180	128	18.52B.150	189	18.78.090	250	18.104.080				
	7	18.06.050	68	18.32.190	129	18.52B.160	190	18.78.100	251	18.104.110				
	8	18.06.060	69	18.32.195	130	18.52C.020	191	18.78.110	252	18.108.010				
	9	18.06.070	70	18.32.220	131	18.52C.030	192	18.78.225	253	18.108.020				
	10	18.06.080	71	18.32.520	132	18.52C.040	193	18.83.010	254	18.108.025				
	11	18.06.110	72	18.32.534	133	18.53.021	194	18.83.025	255	18.108.040				
	12	18.06.120	73	18.32.745	134	18.53.050	195	18.83.045	256	18.108.060				
	13	18.06.130	74	18.34.020	135	18.53.060	196	18.83.050	257	18.108.070				
	14	18.06.140	75	18.34.030	136	18.53.070	197	18.83.060	258	18.108.073				
	15	18.06.160	76	18.34.070	137	18.53.100	198	18.83.072	259	18.108.085				
	16	18.06.170	77	18.34.080	138	18.53.140	199	18.83.080	260	18.122.040				
	17	18.06.180	78	18.34.110	139	18.54.050	200	18.83.090	261	18.122.060				
	18	18.06.190	79	18.34.120	140	18.54.070	201	18.83.105	262	18.122.070				
	19	18.19.020	80	18.35.010	141	18.54.140	202	18.83.170	263	18.122.080				
	20	18.19.030	81	18.35.040	142	18.55.020	203	18.83.190	264	18.122.090				
	21	18.19.050	82	18.35.060	143	18.55.030	204	18.84.020	265	18.122.120				
	22	18.19.070	83	18.35.080	144	18.55.040	205	18.84.040	266	18.122.130				
	23	18.19.080	84	18.35.090	145	18.55.050	206	18.84.050	267	18.122.140				
	24	18.19.090	85	18.35.240	146	18.55.060	207	18.84.060	268	18.122.150				
	25	18.19.100	86	18.35.250	147	18.57.001	208	18.84.070	269	18.130.060				
	26	18.19.110	87	18.36A.020	148	18.57.020	209	18.84.080	270	18.130.175				
	27	18.19.120	88	18.36A.030	149	18.57.050	210	18.84.090	271	18.130.190				
	28	18.19.130	89	18.36A.040	150	18.57.080	211	18.84.100	272	18.135.020				
	29	18.19.140	90	18.36A.050	151	18.57.130	212	18.84.110	273	18.135.030				
	30	18.19.150	91	18.36A.060	152	18.57A.040	213	18.88.030	274	18.135.050				
	31	18.19.160	92	18.36A.070	153	18.59.020	214	18.88.080	275	18.135.055				
	32	18.19.170	93	18.36A.080	154	18.59.080	215	18.88.090	276	18.135.065				
	33	18.19.180	94	18.36A.090	155	18.59.090	216	18.88.160	277	18.135.080				
	34	18.20.020	95	18.36A.100	156	18.59.110	217	18.88.175	278	18.138.010				
	35	18.20.060	96	18.36A.110	157	18.59.150	218	18.88.190	279	18.138.020				
	36	18.25.006	97	18.36A.120	158	18.71.010	219	18.88.200	280	18.138.030				
	37	18.25.017	98	18.36A.130	159	18.71.015	220	18.88.220	281	18.138.040				
	38	18.25.020	99	18.36A.140	160	18.71.040	221	18.88A.020	282	18.138.050				
	39	18.25.040	100	18.46.010	161	18.71.050	222	18.88A.050	283	18.138.060				
	40	18.25.070	101	18.46.050	162	18.71.051	223	18.88A.070	284	18.138.070				
	41	18.25.075	102	18.50.005	163	18.71.080	224	18.88A.080	285	18.138.080				
	42	18.25.100	103	18.50.010	164	18.71.095	225	18.88A.090	286	18.138.090				
	43	18.26.020	104	18.50.020	165	18.71.200	226	18.88A.100	287	19.32.110				
	44	18.26.050	105	18.50.034	166	18.72.100	227	18.89.020	288	26.33.300				
	45	18.26.070	106	18.50.040	167	18.72.120	228	18.89.050	289	28A.210.030				
	46	18.29.021	107	18.50.045	168	18.72.155	229	18.89.060	290	28A.210.090				
	47	18.29.045	108	18.50.050	169	18.72.306	230	18.89.070	291	28A.210.110				
	48	18.29.060	109	18.50.060	170	18.72.380	231	18.89.080	292	28B.104.060				
	49	18.29.071	110	18.50.102	171	18.72.400	232	18.89.090	293	42.17.2401				
	50	18.29.100	111	18.50.105	172	18.74.010	233	18.89.100	294	43.03.028				
	51	18.29.110	112	18.50.115	173	18.74.010	234	18.89.110	295	43.20B.020				
	52	18.29.120	113	18.50.135	174	18.74.020	235	18.89.120	296	43.20B.110				

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.										
	297	43.43.735		363	70.104.080		10	18.88A.080		15	<i>Eff. date</i>		23	41.26.160	
	298	43.59.030		364	70.104.090		11	18.88A.085			43.290.900		24	41.26.170	
	299	43.70.320		365	70.116.010		12	18.88A.100	25	1	38.40.060		25	41.26.180	
	300	43.83B.380		366	70.116.030		13	18.88A.110		2	<i>Applic.</i>		26	41.26.190	
	301	43.99D.025		367	70.118.020		14	18.88A.120		n	38.040.060		27	41.26.240	
	302	43.99E.025		368	70.118.040		15	18.88A.130		3	<i>Em.</i>		28	41.26.058	
	303	69.30.010		369	70.119.020		16	<i>Repealer</i>	26	1	36.18.005		29	41.26.410	
	304	69.30.080		370	70.119A.020		17	<i>Sev.</i>		2	36.18.010		30	41.32.005	
	305	70.05.053		371	70.119A.080			18.88A.900		3	65.04.015		31	41.32.010	
	306	70.05.054		372	70.121.020	17	1	16.65.030		4	65.04.030		32	41.50.200	
	307	70.05.055		373	70.127.010		2	16.65.370		5	65.04.040		33	41.50.205	
	308	70.05.060		374	70.142.020		3	16.65.420		6	65.04.050		34	41.50.210	
	309	70.05.070		375	70.142.050		4	16.65.450	27	1	<i>Finding</i>		35	41.32.025	
	310	70.05.080		376	74.15.060		5	16.65.044			76.13.005		36	41.50.215	
	311	70.05.090		377	43.70.115	18	1	70.116.134		2	<i>Purpose</i>		37	41.50.220	
	312	70.05.100		378	43.70.095	19	1	18.43.020			76.13.007		38	41.32.240	
	313	70.05.130	4	1	<i>Intent</i>		2	18.43.040		3	76.13.010		39	41.32.032	
	314	70.08.050			70.148.120		3	18.43.050		4	76.13.020		40	41.32.260	
	315	70.12.015		2	70.149.130		4	18.43.060		5	76.13.030		41	41.32.263	
	316	70.12.070		3	70.148.140		5	18.43.070		6	<i>Leg. dir.</i>		42	41.32.300	
	317	70.22.020		4	70.148.150		6	18.43.130	28	1	36.96.800		43	41.32.310	
	318	70.22.030		5	70.148.160		7	18.43.100		2	85.38.225		44	41.32.330	
	319	70.22.040		6	70.148.170	20	1	46.55.100		3	85.38.217		45	41.32.340	
	320	70.22.050		7	70.148.020		2	46.55.140	29	1	71.24.035		46	41.32.350	
	321	70.22.060		8	82.23A.020		1	81.29.050		2	71.24.045		47	41.32.360	
	322	70.24.017		9	<i>Leg. dir.</i>	22	1	<i>Approp.</i>		3	71.24.300		48	41.32.366	
	323	70.24.100		10	<i>Sev.</i>		2	<i>Approp.</i>	30	1	69.41.030		49	41.32.390	
	324	70.24.120			n70.148.120		3	<i>Approp.</i>		2	<i>Em.</i>		50	41.50.225	
	325	70.24.130		11	<i>Em.</i>		4	<i>Approp.</i>	31	1	49.30.005		51	41.50.230	
	326	70.24.150	5	1	11.40.010		5	<i>Em.</i>		32	1	9.94A.030		52	41.50.235
	327	70.24.400		2	<i>Em.</i>	23	1	<i>Findings</i>		2	9.94A.310		53	41.32.480	
	328	70.24.410		1	11.108.025			<i>Purpose</i>		3	9.94A.320		54	41.32.494.5	
	329	70.30.081	6	2	11.98.080			40.24.010		4	69.50.435		55	41.32.498	
	330	70.33.010	7	1	11.86.041		2	40.24.020	33	1	3.66.020		56	41.32.499	
	331	70.40.020	8	1	87.03.553		3	40.24.030		2	10.14.150		57	41.32.500	
	332	70.40.030	9	1	16.67.040		4	40.24.040		3	60.10.020		58	41.32.520	
	333	70.40.150		2	16.67.050		5	40.24.050		4	60.11.060		59	41.32.522	
	334	70.41.020		3	16.67.060		6	40.24.060		5	4.24.130		60	41.32.523	
	335	70.41.130		4	16.67.070		7	40.24.070		6	2.24.040		61	41.32.540	
	336	70.41.200	10	1	76.12.067		8	40.24.080		7	<i>Eff. date</i>		62	41.32.550	
	337	70.41.230	11	1	43.51.046		9	40.24.090		n	3.66.020		63	41.32.052	
	338	70.41.240		2	70.93.095		10	42.17.310	34	1	<i>Temporary</i>		64	41.32.610	
	339	70.47.060		3	<i>Approp.</i>		11	42.17.311	35	1	<i>Intent</i>		65	41.32.620	
	340	70.50.010	12	1	18.74.010		12	26.04.175			n41.26.005		66	41.32.630	
	341	70.54.040		2	18.74.012		13	29.01.155		2	<i>Temporary</i>		67	41.32.780	
	342	70.58.005		3	18.74.023		14	<i>Temporary</i>		3	<i>Repealer</i>		68	41.32.790	
	343	70.58.107		4	18.74.140		15	<i>Leg. dir.</i>		4	<i>Leg. rev.</i>		69	41.40.005	
	344	70.58.310		5	18.74.025		16	<i>Eff. dates</i>		5	<i>Leg. rev.</i>		70	41.40.010	
	345	70.58.320		6	<i>Repealer</i>			40.24.900		6	<i>Leg. rev.</i>		71	41.40.020	
	346	70.58.340		7	<i>Eff. dates</i>	24	1	<i>Finding</i>		7	<i>Leg. rev.</i>		72	41.50.250	
	347	70.62.210			n18.74.010			<i>Purpose</i>		8	<i>Leg. rev.</i>		73	41.50.255	
	348	70.83.020	13	1	82.04.434			43.290.005		9	<i>Leg. rev.</i>		74	41.50.260	
	349	70.83.030		2	<i>Eff. date</i>		2	43.290.010		10	<i>Leg. rev.</i>		75	41.50.265	
	350	70.83.040			n82.04.434		3	<i>Vetoed</i>		11	<i>Applic.</i>		76	41.40.032	
	351	70.83B.020	14	1	74.15.110		4	43.290.020			n41.40.690		77	41.40.160	
	352	70.90.110		2	<i>Repealer</i>		5	<i>Vetoed</i>		12	41.26.005		78	41.40.170	
	353	70.90.130	15	1	39.12.040		6	<i>Leg. dir.</i>		13	41.26.030		79	41.40.195	
	354	70.90.210	16	1	18.88A.010		7	43.31.145		14	41.26.035		80	41.40.200	
	355	70.98.030		2	18.88A.020		8	n43.290.005		15	41.26.040		81	41.40.220	
	356	70.104.010		3	18.88A.030		9	<i>Temporary</i>		16	41.50.055		82	41.40.230	
	357	70.104.030		4	18.88A.040		10	<i>Vetoed</i>		17	41.26.080		83	41.40.235	
	358	70.104.040		5	18.88A.140		11	<i>Temporary</i>		18	41.26.090		84	41.40.250	
	359	70.104.050		6	18.88A.050		12	<i>Temporary</i>		19	41.26.120		85	41.40.260	
	360	70.104.055		7	18.88A.150		13	<i>Temporary</i>		20	41.26.130		86	41.40.280	
	361	70.104.057		8	18.88A.060		14	<i>Constr.</i>		21	41.26.140		87	41.40.310	
	362	70.104.060		9	18.88A.070					22	41.26.150		88	41.40.320	

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	89	41.40.042		2	88.04.075	69	1	4.24.210	75	1	70.117.010		4	57.08.010
	90	41.50.270	46	1	81.54.030	70	1	4.84.185		2	70.88.080		5	57.08.100
	91	41.40.363	47	1	18.92.012	71	1	12.40.010		3	70.88.090		6	57.08.120
	92	41.40.052	48	1	80.01.060		2	12.40.080	76	1	43.140.900		7	57.08.170
	93	41.40.062	49	1	<i>Repealer</i>	72	1	11.36.021		2	28A.515.320	83	1	90.76.110
	94	41.40.068		2	<i>Leg. rev.</i>		2	18.08.420		3	79.12.095	84	1	18.78.005
	95	41.40.082	50	1	4.24.210		3	18.100.050	77	1	<i>Repealer</i>		2	18.78.020
	96	41.40.088	51	1	82.04.366		4	18.100.116	78	1	47.17.640		3	18.78.030
	97	41.40.610		2	82.08.0290		5	18.100.130	79	1	41.05.026		4	18.78.040
	98	41.40.625		3	<i>Em.</i>		6	18.100.133	80	1	82.64.010		5	18.78.050
	99	41.40.670	52	1	84.56.020		7	18.100.134		2	82.64.020		6	18.78.055
100	41.40.710			2	<i>Em.</i>		8	19.02.100		3	82.64.030		7	18.78.060
101	41.26.075		53	1	<i>Exp. date</i>		9	23.78.020		4	82.64.050		8	18.78.080
102	41.26.405				n43.17.260		10	23.78.030		5	82.64.060		9	18.78.090
103	41.32.215		54	1	<i>Finding</i>		11	23.78.050		6	n82.64.010		10	18.78.100
104	41.32.700				38.52.500		12	23.78.060		7	82.64.040		11	18.78.182
105	41.40.145			2	38.52.030		13	23.78.080		8	<i>Savings</i>		12	18.78.160
106	41.40.605			3	38.52.510		14	23.78.100		n82.64.010		13	18.78.010	
107	41.40.108			4	38.52.520		15	23.86.070		9	<i>Eff. date</i>		14	<i>Repealer</i>
108	41.50.075			5	38.52.530		16	23.86.145		n82.64.010		85	1	43.88.175
109	41.50.077			6	38.52.540		17	23.86.200	81	1	29.85.010		2	43.17.240
36	1	36.89.090		9	82.14B.010		18	23.86.210		2	29.85.020	86	1	28A.210.180
	2	35.67.200		10	82.14B.020		19	23.86.220		3	29.85.040		2	28A.210.190
	3	35.67.215		11	82.14B.030		20	23.86.230		4	29.85.051		3	28A.210.200
37	1	<i>Finding Intent</i>		12	82.14B.040		21	23.86.330		5	29.85.060		4	<i>Repealer</i>
	2	<i>Temporary</i>		13	82.14B.090		22	23.86.340		6	29.85.070	87	1	<i>Findings</i>
	3	<i>Approp.</i>		14	82.14B.100		23	23.86.360		7	29.85.090			18.64.350
	4	<i>Em.</i>		15	<i>Repealer</i>		24	23B.01.200		8	29.85.100		2	18.64.360
38	1	19.25.010		16	<i>Leg. dir.</i>		25	23B.01.210		9	29.85.110		3	18.64.370
	2	19.25.020		17	n38.52.030		26	23B.01.220		10	29.85.170		4	18.64.380
	3	19.25.030	55	1	43.60A.100		27	23B.01.280		11	29.07.400		5	18.64.390
	4	19.25.040		2	43.60A.110		28	23B.01.400		12	29.07.410		6	18.64.400
	5	19.25.050		3	43.60A.120		29	23B.01.410		13	29.85.210		7	48.20.530
	6	19.25.800		4	43.60A.130		30	23B.01.570		14	29.85.220		8	48.21.330
	7	19.25.810		5	<i>Leg. dir.</i>		31	23B.02.050		15	29.85.225		9	48.44.470
	8	19.25.820		6	<i>Em.</i>		32	23B.04.010		16	29.85.230		10	48.46.540
	9	<i>Sev.</i>	56	1	<i>Purpose</i>		33	23B.07.040		17	29.85.240		11	18.64.410
	10	<i>Repealer</i>			n47.17.140		34	23B.07.060		18	29.85.260		12	18.64.420
39	1	<i>Temporary</i>		2	47.17.140		35	23B.08.240		19	29.85.275		13	42.17.310
40	1	70.128.055	57	1	<i>Finding</i>		36	23B.10.070		20	29.51.020		14	<i>Leg. dir.</i>
	2	70.128.057			n1.16.050		37	23B.14.200		21	29.07.130		15	<i>Eff. date</i>
	3	70.128.105		2	1.16.050		38	23B.15.040		22	29.07.220			n18.64.350
41	1	81.80.080	58	1	28B.50.140		39	23B.15.300		23	29.10.020	88	1	51.32.240
42	1	66.24.320		2	28B.35.205		40	23B.16.010		24	29.10.040		2	51.32.050
	2	66.24.330		3	28B.40.206		41	23B.16.220		25	29.10.051		3	51.12.100
	3	66.24.350	59	1	5.44.040		42	24.03.035		26	29.10.110		4	51.16.110
	4	66.24.360	60	1	28A.315.530		43	24.03.070		27	29.10.150		5	<i>Repealer</i>
43	1	38.04.010	61	1	28A.150.230		44	24.06.905		28	29.10.170	89	1	49.17.210
	2	38.12.200	62	1	1.20.110		45	24.36.050		29	29.36.010		2	49.17.250
	3	38.16.030	63	1	43.43.035		46	24.36.090		30	29.36.013		3	51.36.060
	4	38.24.010	64	1	79.90.520		47	25.10.020		31	29.36.030	90	1	<i>Finding</i>
	5	38.38.132		2	79.90.535		48	25.10.600		32	29.36.060			<i>Purpose</i>
	6	38.38.260		3	<i>Vetoed</i>		49	31.24.030		33	29.36.097			n29.64.015
	7	38.38.404		4	<i>Vetoed</i>		50	31.24.150		34	29.36.160		2	29.64.015
	8	38.38.564	65	1	72.40.120		51	33.48.025		35	29.36.170		3	29.64.051
	9	38.40.110		2	<i>Repealer</i>		52	33.48.030		36	29.64.020		4	<i>Repealer</i>
	10	38.44.020		3	<i>Eff. date</i>		53	43.07.120		37	29.64.030	91	1	27.04.110
	11	38.44.030			n72.40.120		54	43.07.130		38	29.64.070		2	<i>Repealer</i>
	12	38.44.040	66	1	28A.345.030		55	43.07.140		39	35A.42.040		3	<i>Leg. dir.</i>
	13	38.44.050	67	1	15.74.030		56	43.07.190		40	<i>Leg. rev.</i>	92	1	28A.310.490
	14	38.44.060		2	15.74.070		57	50.04.165		41	<i>Repealer</i>		2	28A.400.210
44	1	18.71.015		3	15.74.060		58	61.24.010		42	<i>Eff. date</i>	93	1	9.94A.200005
	2	18.71.085		4	<i>Em.</i>		59	<i>Repealer</i>		n29.85.010		2	9.94A.145	
45	1	88.04.015	68	1	<i>Finding</i>	73	1	46.20.021	82	1	56.08.100		3	9.94A.200010
					n69.60.800		2	46.25.070		2	56.08.140		4	9.94A.200015
			2	69.60.800		74	1	54.16.070		3	56.08.170		5	9.94A.200020

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
	6	9.94A.200025		7	15.80.460		14	28A.400.030		8	Contingency	138	1	84.52.052	
	7	9.94A.200030		8	15.80.470		15	28A.405.460		9	Em.	139	1	19.27.042	
	8	9.94A.200035		9	15.80.500		16	28A.405.465	128	1	Intent	140	1	46.70.090	
	9	9.94A.200040		10	16.58.060		17	28A.330.100			19.166.010		2	46.70.083	
	10	9.94A.200045		11	16.58.095		18	28A.405.400		2	19.166.020		3	46.70.101	
	11	9.94A.200050		12	16.58.110		19	28A.405.450		3	19.166.030	141	1	82.80.040	
	12	n9.94A.200005		13	16.58.120		20	28A.410.020		4	19.166.050		2	82.80.050	
	13	Leg. dir.		14	16.58.130		21	28A.410.030		5	19.166.040		3	82.80.060	
	14	Leg. dir.		15	16.58.160		22	28A.600.060		6	19.166.060		4	82.80.070	
	15	Applic.		16	20.01.040		23	28A.600.070		7	19.166.070		5	Em.	
		n9.94A.200005		17	20.01.050		24	28A.170.100		8	19.166.080	142	1	Short t.	
	16	Em.		18	20.01.210		25	28A.315.230		9	19.166.090			82.32A.002	
94	1	47.42.020		19	20.01.212		26	Repealer		10	19.166.100		2	Finding	
	2	47.42.040		20	20.01.370	117	1	50.04.030		11	28A.300.240			82.32A.005	
	3	47.36.005		21	20.01.380		2	50.20.085		12	Vetoed		3	82.32A.010	
	4	47.36.400		22	20.01.420		3	50.20.190		13	28A.300.200		4	82.32A.020	
	5	47.36.350		23	20.01.440		4	50.24.210		14	74.15.020		5	82.32A.030	
	6	Leg. rev.		24	20.01.465		5	n50.04.030		15	Leg. dir.		6	82.32A.040	
95	1	46.37.480		25	22.09.050		6	Sev.		16	Sev.		7	82.32A.050	
96	1	70.58.055		26	22.09.055			n50.04.030			19.166.900		8	Leg. dir.	
	2	70.58.061		27	22.09.070		7	Eff. dates		17	Eff. date		9	82.32.050	
	3	70.58.065		28	22.09.075			n50.04.030			19.166.901		10	82.32.060	
	4	70.58.104		29	22.09.240	118	1	46.90.300	129	1	50.29.020		11	82.32A.090	
	5	Leg. dir.		30	17.21.070		2	46.90.300	130	1	Findings		12	Sev.	
	6	Repealer		31	17.21.110		3	46.90.406			39.04.210			82.32A.900	
97	1	Approp.		32	17.21.122		4	Eff. date		2	39.04.220		13	Eff. date	
	2	Approp.		33	17.21.126			n46.90.300		3	39.04.230			n82.32.050	
	3	Em.		34	17.21.129	119	1	74.09.520		4	Sev.	143	1	46.44.034	
98	1	Findings		35	17.21.132		2	Em.			n39.04.210		2	46.44.037	
		28B.120.005		36	17.21.140	120	1	48.66.165		5	Em.	144	1	Finding	
	2	28B.120.010		37	17.21.220	121	1	Finding	131	1	72.64.150		2	Temporary	
	3	28B.120.020		38	15.58.200		2	Temporary		2	72.64.160		3	Temporary	
	4	28B.120.030		39	15.58.210	122	1	Findings		3	Sev.	145	1	19.112.010	
	5	28B.120.040		40	15.58.220			n80.04.250			n72.64.150		2	82.36.225	
	6	Leg. dir.		41	Repealer		2	80.04.250	132	1	64.04.175		3	Vetoed	
99	1	46.72.010	110	1	16.57.080		3	19.27A.025		2	58.17.218	146	1	81.80.430	
100	1	80.04.010		2	16.57.120		4	Sev.	133	1	72.09.110	147	1	9.94A.154	
	2	80.04.110		3	16.57.160			n80.04.250	134	1	80.04.110		2	Contingency	
101	1	80.04.015		4	16.57.240	123	1	Purpose	135	1	Intent	148	1	81.80.440	
	2	80.28.270		5	16.57.280			n6.13.030			n43.63A.375	149	1	66.12.190	
102	1	28A.400.340		6	16.57.320		2	6.13.030		2	43.63A.375		2	66.12.200	
103	1	74.09.160		7	16.57.360		3	6.15.025		3	43.63A.377		3	66.12.210	
104	1	9.94A.270		8	16.57.380	124	1	35.92.060		4	70.77.325		4	66.12.220	
	2	72.04A.120	111	1	26.44.030	125	1	70.94.053		5	70.77.345		5	Leg. dir.	
	3	9.94A.120		2	Repealer		2	70.94.262		6	70.77.343		150	1	80.28.022
105	1	71.05.215		1	6.15.010	126	1	74.04.005		7	Leg. dir.	151	1	36.36.010	
	2	71.05.120		113	1	46.44.030		2	74.04.055		8	Eff. date		2	36.36.040
	3	71.05.130		114	1	28A.530.080		3	74.04.500			n43.63A.375	152	1	35.33.123
	4	71.05.210			2	28A.160.130		4	74.04.515		9	Sev.		2	35.34.205
	5	71.05.370			3	28A.530.010		5	Findings			n43.63A.375		3	35A.33.122
	6	Sev.	115	1	28A.405.050			74.25.010	136	1	26.33.040		4	35A.34.205	
		n71.05.215		2	Repealer		6	74.25.020		2	26.33.160	153	1	6.44.010	
106	1	29.45.010		3	Em.		7	74.25.030		3	26.33.190		2	Applic.	
	2	29.45.030	116	1	28A.335.180		8	74.25.900		4	26.33.350			6.44.020	
107	1	Intent		2	28A.300.040		9	Sev.		5	26.33.390		3	6.44.030	
		43.51.415		3	28A.300.060			74.25.901		6	26.33.400		4	6.44.040	
	2	43.51.417		4	28A.155.140		10	Leg. dir.	137	1	69.07.005		5	6.44.050	
	3	43.51.419		5	28A.305.190		11	Repealer		2	69.07.010		6	6.44.060	
	4	Leg. dir.		6	28A.230.020		12	Vetoed		3	69.07.040		7	6.44.070	
108	1	49.17.180		7	28A.230.060	127	1	13.70.150		4	69.07.050		8	6.44.080	
109	1	15.32.100		8	28A.230.100		2	13.70.005		5	69.07.060		9	6.44.090	
	2	15.32.110		9	28A.230.130		3	13.70.010		6	69.07.065		10	6.44.100	
	3	15.32.584		10	28A.150.260		4	13.34.130		7	69.07.095		11	6.44.110	
	4	16.49.440		11	28A.305.130		5	13.70.110		8	69.07.135		12	6.44.120	
	5	16.49.442		12	28A.335.040		6	13.34.210		9	69.07.150		13	6.44.130	
	6	16.49.630		13	28A.335.120		7	Repealer		10	Repealer		14	6.44.140	

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
	15 <i>Short t.</i>		2 <i>Temporary</i>		7 18.55.060		16 11.114.160		228 70.94.015
	6.44.901		3 <i>Temporary</i>		8 18.55.095		17 11.114.170		229 <i>Intent</i>
	16 <i>Eff. date</i>		4 <i>Temporary</i>		9 18.55.085		18 11.114.180		n70.120.020
	6.44.902		5 <i>Temporary</i>		10 <i>Vetoed</i>		19 11.114.190		230 n70.94.011
	17 <i>Sev.</i>		6 <i>Contingency</i>		11 <i>Vetoed</i>		20 11.114.200		231 19.112.090
	6.44.903	167	1 35.82.070		12 18.55.105		21 <i>Applic.</i>		301 70.94.161
	18 <i>Applic.</i>		2 35.82.130		13 <i>Leg. dir.</i>		11.114.210		302 70.94.152
	6.44.904		3 35.82.285	181	1 9.94A.030		22 11.114.220		303 70.94.153
	19 <i>Leg. dir.</i>		4 35.83.020		2 9.94A.135		23 <i>Applic.</i>		304 70.94.163
154	1 48.48.140		5 35.83.030		3 9.94A.120		<i>Constr.</i>		305 70.94.155
	2 59.18.060	168	1 62A.3-515		4 9.94A.180		11.114.230		306 70.94.181
	3 59.18.130		2 62A.3-520		5 9.94A.190		24 <i>Short t.</i>		307 70.94.205
155	1 28A.415.060	169	1 9A.44.120		6 9A.76.010		11.114.900		308 70.94.035
156	1 <i>Finding</i>		2 <i>Em.</i>	182	1 35.21.692		25 11.114.901		309 70.94.211
	2 <i>Temporary</i>	170	1 19.27.113		2 35A.82.025		26 <i>Savings</i>		310 70.94.430
	3 <i>Temporary</i>		2 48.48.045		3 36.32.122		11.114.902		311 70.94.431
157	1 42.17.105	171	1 2.42.110	183	1 10.82.030		27 <i>Repealer</i>		312 70.94.860
	2 42.17.175		2 2.42.130	184	1 40.14.020		28 11.76.095		313 70.94.875
158	1 70.38.025		3 2.42.160	185	1 35.21.087		29 11.98.170		314 70.94.039
	2 70.38.111		4 2.42.170		2 35A.40.110		30 67.70.220		315 70.94.157
159	1 2.10.165		5 <i>Repealer</i>	186	1 29.04.230		31 <i>Repealer</i>		401 70.94.745
	2 2.12.048	172	1 <i>Finding</i>		2 29.04.235		32 11.92.140		402 70.94.743
	3 <i>Contingency</i>		2 <i>Temporary</i>	187	1 4.92.135		33 <i>Leg. dir.</i>		403 70.94.665
160	1 18.57.001		3 <i>Temporary</i>		2 <i>Intent</i>		34 <i>Eff. date</i>		404 70.94.660
	2 18.57.003		4 <i>Sev.</i>		n4.92.135		11.114.903		405 70.94.670
	3 18.57.020		5 <i>Contingency</i>		3 4.92.160		35 <i>Sev.</i>		406 70.94.690
	4 18.57.045		6 <i>Exp. date</i>	188	1 7.28.230		11.114.904		407 70.94.651
	5 18.57.040	173	1 82.47.020	189	1 18.64.275	194	1 <i>Findings</i>		408 70.94.650
	6 18.57.050		2 82.47.010		2 7.72.040		n59.18.253		409 70.94.654
	7 18.57.080		3 82.47.030		3 7.72.010		2 59.18.253		410 70.94.775
	8 18.57.145		4 82.36.440	190	1 56.08.200		3 59.18.257		411 70.94.780
	9 18.57.035		5 82.38.280		2 56.12.015		195 1 18.71.080		412 70.94.750
	10 18.57.130		6 <i>Leg. dir.</i>		3 56.20.030		196 1 41.06.167		413 70.94.656
	11 <i>Repealer</i>		7 <i>Eff. date</i>		4 56.20.080		197 1 4.44.025		501 70.94.457
161	1 9.46.110		n82.47.010		5 57.08.180		198 1 84.36.043		502 70.94.470
162	1 69.04.001	174	1 20.01.010		6 57.12.015		199 101 <i>Finding</i>		503 70.94.455
	2 69.04.880		2 60.13.010		7 57.16.060		n70.94.011		504 70.94.473
	3 69.04.110	175	1 84.52.069		8 57.16.090		102 70.94.011		505 70.94.483
	4 69.04.120	176	1 68.50.032	191	1 19.162.010		103 70.94.030		506 70.94.041
	5 69.04.398		2 43.103.030		2 19.162.020		201 70.120.010		507 <i>Vetoed</i>
	6 69.04.780		3 28B.20.426		3 19.162.030		202 70.120.020		601 <i>Finding</i>
163	1 46.16.010		4 43.79.445		4 19.162.040		203 70.120.070		n70.94.970
	2 46.16.030		5 <i>Finding</i>		5 19.162.050		204 <i>Vetoed</i>		602 70.94.970
	3 46.16.085		n43.103.100		6 19.162.060		205 70.120.080		603 70.94.980
	4 46.87.020		6 43.103.100		7 19.162.070		206 70.120.120		604 70.94.990
	5 46.87.070		7 <i>Repealer</i>		8 80.36.500		207 70.120.150		701 70.94.053
	6 <i>Repealer</i>	177	1 <i>Repealer</i>		9 <i>Leg. dir.</i>		208 70.120.170		702 70.94.055
164	1 28B.10.017	178	1 29.18.021	192	1 66.04.010		209 46.16.015		703 70.94.092
	2 28B.15.623		2 29.04.220		2 66.24.170		210 70.120.190		704 70.94.100
	3 28B.10.8081		3 <i>Leg. rev.</i>		3 66.24.210		211 70.120.200		705 70.94.130
	4 28B.10.808	179	1 <i>Finding</i>		4 9.46.0315		212 70.120.210		706 70.94.141
	5 28B.15.600		76.15.005		1 11.114.010	193	213 43.19.637		707 70.94.170
	6 28B.102.060		2 <i>Purpose</i>		2 11.114.020		214 <i>Temporary</i>		708 70.94.231
	7 28B.104.060		76.15.007		3 11.114.030		215 70.120.220		709 70.94.240
	8 18.150.060		3 76.15.010		4 11.114.040		216 80.28.280		710 70.94.331
	9 70.180.100		4 76.15.020		5 11.114.050		217 80.28.290		711 70.94.332
	10 28B.15.625		5 76.15.030		6 11.114.060		218 70.94.960		712 70.94.385
	11 <i>Exp. date</i>		6 76.15.040		7 11.114.070		219 70.94.037		713 70.94.395
	n28B.15.623		7 <i>Leg. dir.</i>		8 11.114.080		220 82.44.020		714 70.94.405
	12 <i>Em.</i>	180	1 <i>Intent</i>		9 11.114.090		221 82.44.110		715 70.94.410
165	1 <i>Findings</i>		19.55.015		10 11.114.100		222 82.44.150		716 70.94.420
	n35.21.300		2 18.55.020		11 11.114.110		223 82.44.155		717 <i>Eff. dates</i>
	2 35.21.300		3 18.55.075		12 11.114.120		224 82.44.180		70.94.904
	3 54.16.285		4 18.55.040		13 11.114.130		225 82.50.410		718 <i>Repealer</i>
	4 80.28.010		5 18.55.045		14 11.114.140		226 82.50.405		719 <i>Sev.</i>
166	1 46.37.620		6 18.55.050		15 11.114.150		227 82.50.510		70.94.905



**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	5	19.100.070		8	<i>Approp.</i>		26	28B.50.1403		92	28B.50.522		156	<i>Repealer</i>
	6	19.100.080			n47.86.030		27	28B.50.1404		93	<i>Findings</i>		157	<i>Repealer</i>
	7	19.100.100		9	<i>Exp. date</i>		28	28B.50.1405			28B.50.305		158	28B.50.455
	8	19.100.140			n47.86.030		29	28B.50.900		94	28B.50.913		159	<i>Leg. dir.</i>
	9	19.100.160		10	<i>Em.</i>		30	28B.50.050		95	<i>Temporary</i>		160	<i>Leg. dir.</i>
	10	19.100.170	232	1-5	<i>Failed to become law. See 1991 c 232 s 5.</i>		31	28B.50.060		96	<i>Temporary</i>		161	<i>Leg. dir.</i>
	11	19.100.180					32	28B.50.085		97	<i>Temporary</i>		162	<i>Leg. dir.</i>
	12	19.100.184					33	28B.50.090		98	<i>Temporary</i>		163	<i>Leg. dir.</i>
	13	19.100.220					34	28B.50.092		99	<i>Temporary</i>		164	<i>Leg. rev.</i>
	14	19.100.240	233	1	74.09.520		35	28B.50.093		100	28B.50.306		165	<i>Contingency</i>
	15	<i>Vetoed</i>		2	74.09.700		36	28B.50.095		101	28B.50.307			n28B.50.305
	16	19.100.252		3	<i>Contingency</i>		37	28B.50.100		102	<i>Temporary</i>		166	<i>Eff. dates</i>
	17	19.100.255	234	1	<i>Temporary</i>		38	28B.50.130		103	28B.50.328			28B.50.917
227	1	<i>Finding</i>		2	<i>Temporary</i>		39	28B.50.140		104	41.06.0701		167	<i>Sev.</i>
		19.170.010		3	<i>Em.</i>		40	28B.50.142		105	41.05.112			28B.50.918
	2	19.170.020	235	1	<i>Temporary</i>		41	28B.50.143		106	41.04.802	239	1	15.35.030
	3	19.170.030		2	<i>Temporary</i>		42	28B.50.145		107	28B.16.043		2	15.35.060
	4	19.170.040		3	<i>Temporary</i>		43	28B.50.150		108	41.40.112		3	15.35.070
	5	19.170.050		4	28A.175.010		44	28B.50.205		109	28B.52.310		4	15.35.080
	6	19.170.060		5	<i>Vetoed</i>		45	28B.50.242		110	43.01.046		5	15.35.090
	7	19.170.070		6	<i>Exp. date</i>		46	28B.50.250		111	28B.50.880		6	15.35.100
	8	19.170.080		7	<i>Em.</i>		47	28B.50.320		112	41.56.024		7	15.35.105
	9	19.105.365	236	1	<i>Findings</i>		48	28B.50.330		113	28B.10.016		8	15.35.110
	10	64.36.320			18.175.010		49	28B.50.340		114	<i>Temporary</i>		9	15.35.120
	11	<i>Sev.</i>		2	18.175.020		50	28B.50.350		115	28B.50.301		10	15.35.140
		19.170.900		3	18.175.030		51	28B.50.360		116	28B.50.914		11	15.35.150
	12	<i>Leg. dir.</i>		4	18.175.040		52	28B.50.370		117	<i>Temporary</i>		12	15.35.170
228	1	<i>Intent</i>		5	18.175.050		53	28B.50.402		118	<i>Temporary</i>		13	15.35.180
	2	28B.15.792		6	18.175.060		54	28B.50.404		119	<i>Temporary</i>		14	15.35.230
	3	28B.15.794		7	18.175.070		55	28B.50.405		120	<i>Temporary</i>		15	15.35.250
	4	28B.15.796		8	18.175.080		56	28B.50.409		121	<i>Temporary</i>		16	15.35.310
	5	<i>Vetoed</i>		9	<i>Leg. dir.</i>		57	28B.50.520		122	28B.50.915		17	<i>Repealer</i>
	6	<i>Vetoed</i>		10	<i>Approp.</i>		58	28B.50.535		123	<i>Temporary</i>		18	<i>Em.</i>
	7	28B.80.550	237	1	43.07.220		59	28B.50.551		124	<i>Temporary</i>	240	1	41.04.005
	8	28B.80.555		2	43.07.230		60	28B.50.600		125	<i>Temporary</i>		2	72.36.035
	9	<i>Leg. dir.</i>		3	43.07.240		61	28B.50.740		126	<i>Temporary</i>		3	73.04.090
	10	28B.108.010		4	40.14.020		62	28B.50.835		127	<i>Temporary</i>	241	1	81.80.305
	11	28B.108.030		5	<i>Leg. dir.</i>		63	28B.50.837		128	<i>Temporary</i>		2	81.80.300
	12	28B.108.070		6	<i>Eff. date</i>		64	28B.50.839		129	<i>Temporary</i>	242	1	<i>Temporary</i>
	13	<i>Intent</i>			n43.07.220		65	28B.50.841		130	<i>Temporary</i>	243	1	46.52.130
		n28B.15.628	238	1	<i>Findings</i>		66	28B.50.843		131	28B.50.302	244	1	<i>Temporary</i>
	14	28B.15.628			28C.18.005		67	28B.50.850		132	28B.50.256	245	1	17.04.180
	15	<i>Exp. date</i>		2	28C.18.010		68	28B.50.851		133	<i>Temporary</i>		2	28A.510.270
		n28B.15.628		3	28C.18.020		69	28B.50.867		134	28B.50.098		3	36.16.140
	16	<i>Leg. dir.</i>		4	28C.18.030		70	28B.50.869		135	43.19.190		4	36.29.010
229	1	18.130.250		5	28C.18.040		71	28B.50.870		136	28B.50.482		5	36.29.020
	2	18.64.205		6	28C.18.050		72	28B.50.873		137	28B.50.484		6	36.29.060
	3	18.64.043		7	28C.18.060		73	28B.50.875		138	28B.50.601		7	36.29.110
	4	18.64.045		8	<i>Temporary</i>		74	15.76.120		139	28B.50.528		8	36.29.180
	5	18.64.046		9	<i>Temporary</i>		75	28A.305.270		140	<i>Findings</i>		9	36.33.160
	6	18.64.047		10	<i>Temporary</i>		76	28A.150.500			28A.300.230		10	36.34.080
	7	18.64.140		11	<i>Temporary</i>		77	28B.50.252		141	28A.300.235		11	36.48.070
	8	69.45.070		12	<i>Temporary</i>		78	28A.300.220		142	28A.320.120		12	36.88.235
	9	69.50.301		13	<i>Constr.</i>		79	28B.50.096		143	28B.50.877		13	43.09.240
	10	18.64A.065		14	50.67.010		80	50.12.245		144	28B.50.215		14	58.08.040
230	1-7	<i>Failed to become law. See 1991 c 230 s 6.</i>		15	50.67.020		81	28C.10.020		145	28B.52.010		15	82.45.180
				16	28C.20.010		82	28B.50.533		146	28B.52.020		16	84.56.020
				17	28C.20.020		83	28B.50.874		147	28B.52.030		17	84.56.050
				18	28C.20.030		84	28B.50.327		148	28B.52.035		18	84.56.060
231	1	n47.86.030		19	28B.50.254		85	28B.50.912		149	28B.52.050		19	84.56.070
	2	n47.86.030		20	28B.50.010		86	<i>Temporary</i>		150	28B.52.060		20	84.56.120
	3	n47.86.030		21	28B.50.020		87	<i>Temporary</i>		151	28B.52.070		21	84.56.220
	4	n47.86.030		22	28B.50.030		88	<i>Temporary</i>		152	28B.52.078		22	84.56.230
	5	n47.86.030		23	28B.50.040		89	<i>Temporary</i>		153	28B.52.090		23	84.56.260
	6	n47.86.030		24	28B.50.1401		90	<i>Temporary</i>		154	28B.52.200		24	84.56.280
	7	47.86.030		25	28B.50.1402		91	<i>Constr.</i>		155	28B.52.210		25	84.64.050

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.								
26	84.64.070	8	28A.625.050	7	9.46.190	7	25.10.160	11	81.108.100
27	84.64.080	9	28A.625.060	8	9.46.196	8	<i>Vetoed</i>	12	81.108.110
28	84.64.120	10	<i>Temporary</i>	9	9.46.240	9	<i>Vetoed</i>	13	<i>Constr.</i>
29	84.64.215	11	<i>Repealer</i>	10	9.46.220	10	25.10.210		81.108.900
30	84.64.270	12	<i>Contingency</i>	11	9.46.221	11	25.10.800	14	82.16.010
31	84.69.020	13	<i>Em.</i>	12	9.46.222	12	25.10.600	15	82.04.260
32	84.69.030	256	1 <i>Finding</i>	262	1 71.24.035	13	25.10.810	16	43.200.230
33	84.69.040		n72.60.235	2	71.24.300	14	25.10.820	17	43.200.233
34	84.69.060	2	72.60.235	3	<i>Contingency</i>	15	25.10.830	18	43.200.235
35	85.05.280	3	<i>Applic.</i>	4	<i>Em.</i>	16	25.10.840	19	43.31.422
36	85.05.360		n72.60.235	263	1 17.21.190	17	25.10.900	20	43.31.425
37	84.56.290	4	<i>Sev.</i>	2	<i>Em.</i>	18	25.10.905	21	43.31.428
38	84.69.070		n72.60.235	264	1 15.58.030	19	25.10.910	22	<i>Leg. dir.</i>
39	84.69.110	5	<i>Em.</i>	2	15.58.040	20	25.10.915	23	82.29A.020
40	84.69.120	257	1 15.09.080	3	15.58.150	21	25.10.920	24	<i>Eff. dates</i>
41	<i>Leg. rev.</i>	2	15.26.155	4	15.58.210	22	25.10.925		81.108.901
42	<i>Repealer</i>	3	<i>Purpose</i>	265	1 <i>Intent</i>	23	25.10.930	273	1 90.54.024
43	<i>Repealer</i>		17.24.003		28A.630.820	24	25.10.935	274	1 <i>Finding</i>
246	1 51.08.195	4	17.24.007	2	28A.630.825	25	25.10.940		<i>Intent</i>
2	51.08.070	5	17.24.011	3	28A.630.830	26	25.10.945		n9A.44.130
3	51.08.180	6	17.24.021	4	28A.630.835	27	25.10.950	2	9A.44.130
4	51.12.020	7	17.24.031	5	28A.630.840	28	25.10.955	3	9A.44.140
5	51.12.110	8	17.24.041	6	<i>Leg. dir.</i>	29	25.10.370	4	<i>Contingency</i>
6	50.04.140	9	17.24.051	7	<i>Exp. date</i>	30	25.10.440	275	1 <i>Finding</i>
7	50.04.230	10	17.24.061		28A.630.850	31	25.10.453		<i>Intent</i>
8	<i>Repealer</i>	11	17.24.071	8	<i>Em.</i>	32	25.10.455		n82.04.360
9	n51.08.195	12	17.24.081	9	<i>Contingency</i>	33	25.10.457	2	82.04.360
10	<i>Eff. date</i>	13	17.24.091	266	1 48.10.055	34	<i>Repealer</i>	3	<i>Eff. date</i>
	n51.08.195	14	17.24.101	267	1 <i>Findings</i>	35	23B.01.400		n82.04.360
247	1 10.05.140	15	17.24.111		n43.101.270	36	23B.04.010	276	1 46.44.015
2	10.05.170	16	17.24.121	2	43.101.270	37	23B.13.020	277	1 18.85.220
3	10.64.120	17	17.24.131	3	70.125.080	38	23B.11.080	2	18.43.150
4	10.01.160	18	17.24.141	4	<i>Leg. dir.</i>	39	23B.11.090	3	<i>Eff. date</i>
248	1 43.31.502	19	17.24.151	5	<i>Leg. dir.</i>	40	23B.11.100		n18.85.220
2	43.31.506	20	17.24.161	6	<i>Contingency</i>	41	23B.11.110	278	1 41.32.065
249	1 41.04.340	21	17.24.171	7	<i>Eff. date</i>	42	<i>Leg. dir.</i>	2	41.32.067
2	41.04.255	22	43.06.010		n43.101.270	43	25.10.553	3	<i>Em.</i>
250	1 <i>Finding</i>	23	<i>Repealer</i>	268	1 <i>Applic.</i>	44	25.10.555	279	1 75.20.160
	<i>Intent</i>	24	17.24.900		48.35.010	270	1 67.16.010	280	1 <i>Findings</i>
	n82.08.0283	25	<i>Leg. dir.</i>	2	48.35.020	2	67.16.014		15.04.400
2	82.08.0283	26	<i>Em.</i>	3	48.35.040	3	67.16.060	2	15.04.402
3	82.12.0277	258	1 28A.415.100	4	48.35.030	4	67.16.100	281	1 60.04.011
251	1 <i>Finding</i>	2	28A.415.105	5	48.35.060	5	67.16.102	2	60.04.021
	43.147.020	3	28A.415.110	6	48.35.050	6	67.16.105	3	60.04.031
2	43.147.010	4	28A.415.115	7	48.35.070	7	67.16.130	4	60.04.041
3	43.147.030	5	<i>Applic.</i>	8	48.35.080	8	67.16.170	5	60.04.051
4	<i>Leg. dir.</i>		28A.415.120	9	48.35.090	9	67.16.175	6	60.04.061
5	<i>Approp.</i>	6	28A.415.125	10	48.35.100	10	67.16.200	7	60.04.071
252	1 28A.300.260	7	28A.415.130	11	48.35.110	11	67.16.230	8	60.04.081
2	<i>Contingency</i>	8	28A.415.135	12	48.35.120	12	67.16.250	9	60.04.091
253	1 77.18.005	9	28A.415.140	13	48.35.130	13	<i>Repealer</i>	10	60.04.101
2	77.18.010	10	28A.415.145	14	48.35.140	14	<i>Em.</i>	11	60.04.111
3	77.18.020	11	<i>Repealer</i>	15	48.35.150	271	1 70.38.220	12	60.04.121
4	77.18.030	12	<i>Leg. dir.</i>	16	48.35.160	2	<i>Em.</i>	13	60.04.131
5	43.131.375	13	<i>Contingency</i>	17	48.35.170	3	<i>Contingency</i>	14	60.04.141
6	43.131.376	259	1 <i>Findings</i>	18	48.35.180	272	1 <i>Purpose</i>	15	60.04.151
7	<i>Leg. dir.</i>		n28A.305.245	19	48.35.190		81.108.010	16	60.04.161
254	1 28A.400.390	2	<i>Vetoed</i>	20	48.35.200	2	81.108.020	17	60.04.171
2	<i>Vetoed</i>	3	28A.305.245	21	<i>Em.</i>	3	81.04.010	18	60.04.181
255	1 28A.625.020	260	1 46.20.265	22	<i>Leg. dir.</i>	4	81.108.030	19	60.04.191
2	28A.625.030	261	1 9.46.0213	269	1 25.10.020	5	81.108.040	20	60.04.201
3	28A.625.041	2	9.46.0265	2	25.10.030	6	81.108.050	21	60.04.211
4	28A.625.065	3	9.46.160	3	25.10.100	7	81.108.060	22	60.04.221
5	28A.625.071	4	9.46.170	4	25.10.110	8	81.108.070	23	60.04.226
6	28B.80.255	5	9.46.180	5	25.10.130	9	81.108.080	24	60.04.261
7	28B.80.265	6	9.46.185	6	25.10.140	10	81.108.090		

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.		
	25 <i>Constr.</i> 60.04.900		4 43.59.140 5 46.61.990	298	1 <i>Finding</i> n70.95.030		12 <i>Eff. date</i> 49.12.902		8 <i>Failed to become law.</i> <i>See 1991 c 314 s 38.</i>		
	26 60.04.901		6 70.96A.120		2 70.95.030	304	1 <i>Findings</i> 70.119A.100		9 43.31.651		
	27 19.27.095	291	1 47.12.242		3 70.95.090		2 70.119A.020		10 43.31.661		
	28 60.04.230		2 47.12.244		4 70.95.110		3 70.119A.030		11 43.210.100		
	29 <i>Leg. dir.</i>		3 47.12.125		5 19.27.470		4 70.119A.060		12 43.210.110		
	30 <i>Leg. rev.</i>		4 47.12.246		6 19.27.480		5 70.119A.110		13 43.210.120		
	31 <i>Repealer</i>		5 47.12.249	299	1-9 <i>Failed to become law.</i> <i>See 1991 c 299 s 9.</i>		6 70.119A.120		14 43.210.070		
	32 <i>Eff. date</i> <i>Applic.</i> 60.04.902	292	1 46.55.010 2 46.55.230 3 46.55.240		300	1 2.24.010 2 4.12.040 3 4.12.050 4 26.12.050 5 26.12.060 6 71.05.135 7 71.05.137 8 <i>Contingent Eff. date</i> n2.24.010		7 70.119A.130 8 n70.119A.100 9 <i>Leg. dir.</i>	15 43.210.030 16 43.210.050 17 43.131.373 18 43.131.374 19 43.168.020 20 43.168.140 21 43.160.010 22 43.160.020 23 43.160.200 24 43.160.076 25 43.160.210 26 <i>Temporary</i> 27 <i>Temporary</i> 28 43.17.065 29 53.36.030 30 <i>Failed to become law.</i> <i>See 1991 c 314 s 41.</i>		
282	1 41.50.065	293	1 7.68.035 2 46.16.710 3 46.20.021 4 46.20.207 5 46.20.291 6 46.20.342 7 46.65.020 8 46.90.300 9 46.90.300 10 <i>Repealer</i> 11 <i>Eff. date</i> n46.90.300		301	1 <i>Finding</i> n10.99.020 2 <i>Failed to become law.</i> <i>See 1991 c 301 s 20.</i> 3 10.99.020 4 10.99.040 5 10.99.050 6 26.50.110 7 26.50.150 8 26.50.010 9 70.123.020 10 70.123.075 11 70.123.130 12 70.123.140 13 42.17.310 14 <i>Temporary</i> 15 26.44.140 16 82.14.340 17 <i>Leg. dir.</i> 18 <i>Leg. dir.</i> 19 <i>Em.</i> 20 <i>Contingency</i>		305	1 70.119.010 2 70.119.020 3 70.119.030 4 70.119.060 5 70.119.090 6 70.119.100 7 70.119.110 8 70.119.130 9 71.24.015 10 71.24.025 11 71.24.035 12 <i>Vetoed</i> 13 71.24.045 14 <i>Repealer</i> 15 n71.24.015 16 90.48.465 17 47.26.121 18 <i>Eff. date</i> n47.26.121 19 35.58.273 20 81.104.030 21 81.104.110 22 81.104.140 23 82.44.150 24 <i>Repealer</i> 25 47.56.725 26 46.68.100 27 82.14.310 28 82.14.315 29 <i>Vetoed</i> 30 82.14.330 31 82.14.340 32 n82.14.330 33 63.29.190 34 <i>Sev.</i> n82.14.310 35 <i>Em.</i> 36 9.73.070 37 <i>Vetoed</i> 38 3.34.020 39 3.34.025 40 <i>Temporary</i> 41 <i>Findings</i> n43.31.601 42 43.31.601 43 43.31.611 44 43.31.621 45 <i>Failed to become law.</i> <i>See 1991 c 314 s 36.</i> 46 43.31.631 47 43.31.641		
283	1 <i>Findings</i> n74.14B.080 2 74.14B.080 3 4.24.590 4 <i>Contingency</i> 5 <i>Eff. date</i> n74.14B.080								31 <i>Leg. dir.</i> 32 <i>Repealer</i> 33 <i>Exp. date</i> n43.160.200 34 <i>Eff. date</i> n43.160.210 35 <i>Em.</i> 36 <i>Contingency</i> 37 <i>Contingency</i> 38 <i>Contingency</i> 39 <i>Contingency</i> 40 <i>Contingency</i> 41 <i>Contingency</i>		
	284								315	1 <i>Intent</i> n50.12.270 2 <i>Temporary</i> 3 50.12.270 4 50.22.090 5 50.70.010 6 50.70.020 7 50.70.030 8 50.70.040 9 50.70.050	
	285	294	1 <i>Intent</i> n28B.50.851 2 28B.50.851 3 28B.50.852 4 28B.50.857 5 28B.50.858 6 <i>Constr.</i> n28B.50.851 7 <i>Eff. date</i> <i>Applic.</i> n28B.50.851 8 <i>Sev.</i> n28B.50.851							14 <i>Failed to become law.</i> <i>See 1991 c 315 s 35.</i> 15 28B.50.030 16 28B.50.258 17 28B.50.259 18 28B.80.570 19 28B.80.575 20 28B.80.580 21 28B.80.585 22 70.47.115 23 43.63A.600	
	286										
	287										
	288	295	1 43.185.060 2 43.185.070 3 71.24.300 4 <i>Failed to become law.</i> <i>See 1991 c 296 s 12.</i> 5 <i>Purpose</i> 43.19A.005 6 43.19A.010 7 43.19A.020 8 43.19A.030 9 43.19.538 10 43.19A.040 11 43.19A.050 12 43.19A.060 13 43.19A.070 14 43.78.170 15 43.19A.080 16 43.19A.090 17 43.19A.100 18 47.28.220 19 19.27.175 20 <i>Temporary</i> 43.19A.110 21 28A.335.300 22 <i>Repealer</i> 43.19A.005 23 <i>Leg. dir.</i> 43.19A.900 24 <i>Contingency</i>								
	289										
	290										

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
	24 43.63A.610	201	<i>Finding</i>	322	1 <i>Findings</i>		19 82.04.360		3 18.165.030
	25 43.63A.620		70.95H.005		<i>Intent</i>		20 18.16.190		4 18.165.040
	26 43.63A.630	202	70.95H.007		n86.12.200		21 <i>Leg. dir.</i>		5 18.165.050
	27 43.63A.640	203	70.95H.010	2	<i>Purpose</i>		22 <i>Sev.</i>		6 18.165.060
	28 43.20A.750	204	70.95H.020		n86.12.200		18.16.910		7 18.165.070
	29 <i>Failed to become law. See 1991 c 315 s 37.</i>	205	70.95H.030	3	86.12.200		23 <i>Vetoed</i>		8 18.165.080
	30 <i>Temporary</i>	206	70.95H.040	4	86.12.210		24 <i>Repealer</i>		9 18.165.090
	31 <i>Sev.</i>	207	70.95H.050	5	86.12.220		25 <i>Contingency</i>		10 18.165.100
	50.70.900	208	<i>Vetoed</i>	6	86.26.050	325	1 9.08.080		11 18.165.110
	32 50.70.901	209	70.95H.900	7	86.26.090		2 9.08.090		12 18.165.120
	33 <i>Eff. date</i>	210	43.31.545	8	86.26.100		3 4.24.570		13 18.165.130
	50.70.902	211	70.95H.901	9	86.15.023		4 4.24.575		14 18.165.140
	34 <i>Contingency</i>	212	70.95H.800	10	86.15.178		5 4.24.580		15 18.165.150
	35 <i>Contingency</i>	213	<i>Repealer</i>	11	86.16.110		6 <i>Sev.</i>		16 18.165.160
	36 <i>Contingency</i>	214	<i>Leg. dir.</i>	12	75.20.1001		n9.08.080		17 18.165.170
	37 <i>Contingency</i>	301	<i>Finding</i>	13	<i>Repealer</i>		7 <i>Em.</i>		18 18.165.180
	38 <i>Leg. dir.</i>		70.95I.005	14	<i>Temporary</i>	326	1 <i>Vetoed</i>		19 18.165.190
316	1 <i>Finding</i>	302	70.95I.010	15	<i>Temporary</i>		2 74.13.170		20 18.165.200
	<i>Intent</i>	303	70.95I.020	16	<i>Temporary</i>		3 <i>Finding</i>		21 18.165.210
	76.12.205	304	70.95I.030	17	86.16.190		n13.40.310		22 18.165.220
	2 76.12.210	305	70.95I.040	18	75.20.104		4 13.40.310		23 18.165.230
	3 76.12.220	306	70.95I.050	19	75.20.1041		5 <i>Temporary</i>		24 18.165.240
	4 76.12.230	307	70.95I.060	20	38.52.030		6-9 <i>Failed to become law. See 1991 c 326 s 10.</i>		25 18.165.250
	5 <i>Leg. dir.</i>	308	70.95I.070	21	75.20.005		10 <i>Contingency</i>		26 18.165.260
	6 <i>Sev.</i>	309	70.95I.900	22	75.20.1002		11 <i>Intent</i>		27 18.165.270
	n76.12.205	310	<i>Short t.</i>	23	36.70A.150		71.36.005		28 43.101.250
	317	311	70.94.610	24	79.90.130		12 71.36.010		29 <i>Sev.</i>
	1 <i>Vetoed</i>	312	70.105.221	25	<i>Vetoed</i>		13 71.36.020		30 18.165.900
	2 7.48.310	313	70.95C.020	26	79.90.300		14 71.36.030	329	7 38.52.550
318	1 81.104.010	314	70.95C.200	27	<i>Leg. rev.</i>		15 <i>Vetoed</i>		8 9.73.070
	2 81.104.020	315	<i>Repealer</i>	28	<i>Repealer</i>		16 <i>Vetoed</i>	330	1 82.32.330
	3 81.104.030	316	<i>Leg. rev.</i>	29	47.28.140		17 71.36.900		2 82.32.410
	4 81.104.040	317	<i>Leg. dir.</i>	30	75.20.100		18 <i>Leg. dir.</i>	331	1 67.28.260
	5 81.104.050	401	70.95.040	31	75.20.103		19 <i>Sev.</i>		2 67.28.200
	6 81.104.060	402	70.95.167	32	90.58.100		71.36.901	332	3 67.28.210
	7 81.104.080	403	81.77.180	33	<i>Temporary</i>		20 <i>Em.</i>		4 <i>Repealer</i>
	8 81.104.090	404	35.21.135	34	<i>Em.</i>		21 <i>Contingency</i>		1 18.130.010
	9 81.104.100	405	35A.21.153	323	1 19.60.010		22 <i>Contingency</i>		2 18.130.075
	10 81.104.110	406	81.77.190		2 19.60.020		1 59.22.080	337	4 <i>Intent</i>
	11 81.104.140	407	70.95.235		3 19.60.040		2 59.22.020		5 28B.125.005
	12 81.104.160	408	46.61.560		4 19.60.045		3 59.22.050		6 18.120.030
	13 82.80.020	409	70.95F.901		5 19.60.050		4 59.22.090		7 70.185.010
	14 <i>Intent</i>	410	<i>Contingency</i>		6 19.60.055		5 82.08.065		8 70.185.020
	n36.57A.040	411	<i>Sev.</i>		7 19.60.060		6 82.45.090		9 70.185.030
	36.57A.040		70.95F.900		8 19.60.061		7 59.22.085		10 70.185.040
	36.57A.055	412	<i>Em.</i>		9 19.60.062		8 59.21.005		11 70.185.050
	36.57A.140	320	1 18.26.320		10 19.60.066		9 59.21.095		12 70.185.060
319	101 70.93.020		2 18.26.330	324	1 18.16.020		10 59.21.010		13 70.185.070
	102 70.93.030		3 18.26.340		2 18.16.030		11 59.21.020		14 70.185.080
	103 70.95F.010		4 18.26.350		3 18.16.050		12 59.21.050		15 28B.115.020
	104 70.95F.020		5 18.26.360		4 18.16.060		13 59.21.060		16 28B.115.030
	105 70.95F.030		6 18.26.370		5 18.16.090		14 59.21.110		17 28B.115.040
	106 <i>Finding</i>		7 18.26.380		6 18.16.100		15 59.21.085		18 28B.115.050
	70.95G.005		8 18.25.040		7 18.16.110		16 59.21.105		19 28B.115.060
	70.95G.010		9 18.25.090		8 18.16.165		17 <i>Constr.</i>		20 28B.115.070
	70.95G.020		10 18.25.190		9 18.16.170		18 <i>Repealer</i>		21 28B.115.080
	70.95G.030		11 18.26.390		10 18.16.130		19 <i>Sev.</i>		22 28B.115.090
	70.95G.040	321	12 <i>Leg. dir.</i>		11 18.16.140		59.21.901		23 28B.115.100
	70.95G.050		1 5.60.070		12 18.16.150		20 <i>Eff. date</i>		24 28B.115.110
	70.95G.060		2 5.60.072		13 18.16.160		59.21.903		25 28B.115.120
	n70.95G.005		3 <i>Sev.</i>		14 18.16.200		18.165.010	328	1 28B.20.500
	70.95C.120		n5.60.070		15 18.16.175		2 18.165.020		27 70.180.005
	n70.95H.005		4 <i>Em.</i>		16 18.16.180				
	116 <i>Leg. dir.</i>				17 50.04.225				
					18 51.12.020				

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	28	28B.115.130		501	70.02.120		4	74.13.280		47	47.17.825		13	<i>Contingency</i>
	29	70.180.011		601	70.02.130		5	<i>Em.</i>		48	47.17.830			28A.630.786
	30	18.53.035		602	70.02.140	341	1	<i>Finding</i>		49	47.17.835		14	<i>Sev.</i>
	31	18.35.085		701	70.02.150			15.92.005		50	47.17.855			28A.630.789
	32	18.50.065		702	70.02.160		2	15.92.010		51	47.17.919		15	<i>Leg. dir.</i>
	33	18.34.115		801	70.02.170		3	15.92.020		52	47.24.020	347	1	<i>Findings</i>
	34	18.130.180		901	70.02.900		4	15.92.030		53	n47.24.020			90.42.005
	35	<i>Vetoed</i>		902	42.17.312		5	15.92.040		54	47.39.020		2	<i>Purpose</i>
	36	<i>Leg. rev.</i>		903	<i>Applic.</i>		6	15.92.050		55	47.17.960			n90.42.005
	37	<i>Leg. dir.</i>			<i>Constr.</i>		7	15.92.060		56	46.68.090		3	90.54.035
	38	<i>Leg. dir.</i>			70.02.901		8	15.92.070		57	82.36.025		4	90.54.045
	39	<i>Leg. dir.</i>		904	<i>Short t.</i>		9	15.92.080		58	<i>Approp.</i>		5	<i>Purpose</i>
	40	18.92.015			70.02.902		10	<i>Contingency</i>		59	46.68.110			90.42.010
	41	18.92.135		905	<i>Sev.</i>		11	<i>Leg. dir.</i>		60	47.26.164		6	90.42.020
	42	18.92.145			70.02.903		12-14	<i>Failed to become law.</i>		61	<i>Approp.</i>		7	90.42.030
	43	n18.130.010		906	70.02.904			<i>See 1991</i>		62	47.26.167		8	90.42.040
	44	<i>Em.</i>		907	<i>Leg. dir.</i>			<i>c 341 s 16.</i>		63	<i>Temporary</i>		9	90.42.050
	45	<i>Contingency</i>	336	1	67.28.180		15	<i>Exp. date</i>		64	46.68.120		10	90.42.060
	46	n18.130.010		2	67.40.120		16	<i>Contingency</i>		65	<i>Repealer</i>		11	90.42.070
333	1	71A.10.080		3	<i>Eff. date</i>		342	1	47.17.077		66	<i>Leg. dir.</i>	12	90.42.080
334	1	18.170.010		n67.28.180			2	47.17.115		67	<i>Temporary</i>		13	90.42.090
	2	18.170.020	337	1	79.90.150		3	47.17.153		68	<i>Eff. dates</i>		14	90.14.215
	3	18.170.030		2	<i>Repealer</i>		4	47.17.163			n47.26.167		15	90.03.380
	4	18.170.040	338	1	<i>Vetoed</i>		5	47.17.170		343	1	<i>Findings</i>	16	19.27.170
	5	18.170.050		2	3.34.040		6	47.17.212			n41.50.005		17	35.67.020
	6	18.170.060		3	3.58.020		7	47.17.216		2	<i>Intent</i>		18	35.92.010
	7	18.170.070		4	<i>Vetoed</i>		8	47.17.219			41.50.005		19	56.16.090
	8	18.170.080	339	1	82.36.045		9	47.17.221		3	41.32.010		20	57.20.020
	9	18.170.090		2	82.36.040		10	47.17.223		4	41.32.013		21	54.24.080
	10	18.170.100		3	82.36.120		11	47.17.225		5	41.32.765		22	80.28.010
	11	18.170.110		4	82.36.047		12	47.17.227		6	41.40.010		23	80.28.025
	12	18.170.120		5	46.87.335		13	47.17.255		7	41.40.185		24	82.04.2402
	13	18.170.130		6	82.38.090		14	47.17.262		8	41.40.235		25	<i>Vetoed</i>
	14	18.170.140		7	82.38.170		15	47.17.305		9	41.40.450		26	82.12.0299
	15	18.170.150		8	82.42.120		16	47.17.317		10	41.40.620		27	<i>Leg. dir.</i>
	16	18.170.160		9	46.87.070		17	47.17.330		11	41.40.630		28	<i>Eff. date</i>
	17	18.170.170		10	46.87.140		18	47.17.370		12	41.32.812			n90.54.045
	18	18.170.180		11	46.16.319		19	47.17.375		13	41.50.132		29	<i>Contingency</i>
	19	18.170.190		12	82.80.010		20	47.17.377		14	41.26.030		30	<i>Sev.</i>
	20	18.170.200		13	82.36.010		21	47.17.410		15	41.26.090			90.42.900
	21	18.170.210		14	82.36.030		22	47.17.436		16	41.26.100	348	1	46.61.520
	22	18.170.220		15	82.38.150		23	47.17.460		17	41.26.160		2	46.61.524
	23	18.170.230		16	46.01.140		24	47.17.481		18	41.26.430		3	<i>Vetoed</i>
	24	18.170.240		17	<i>Vetoed</i>		25	47.17.482		19	<i>Eff. dates</i>		4	9.94A.030
	25	18.170.250		18	46.01.270		26	47.17.503			n41.50.005		5	<i>Eff. date</i>
	26	18.170.260		19	46.12.101		27	47.17.517	344	1	<i>Repealer</i>			n46.61.520
	27	18.170.270		20	46.16.220		28	47.17.550		2	<i>Em.</i>	349	1	85.38.010
	28	18.170.280		21	46.16.381		29	47.17.566	345	1	<i>Findings</i>		2	85.38.105
	29	43.101.260		22	46.16.390		30	47.17.569			n43.10.260		3	85.08.025
	30	<i>Sev.</i>		23	<i>Vetoed</i>		31	47.17.577		2	43.10.260		4	86.09.377
		18.170.900		24	46.30.020		32	47.17.615		3	43.10.270		5	85.38.100
	31	<i>Contingency</i>		25	46.61.582		33	47.17.625	346	1	<i>Findings</i>		6	85.38.115
	32	<i>Leg. dir.</i>		26	46.61.583		34	47.17.630			<i>Purpose</i>		7	85.24.250
335	101	<i>Findings</i>		27	46.63.020		35	47.17.650			28A.630.750		8	85.38.040
	102	70.02.010		28	46.70.023		36	47.17.660		2	<i>Short t.</i>		9	85.38.050
	201	70.02.020		29	35.58.273		37	47.17.680			28A.630.753		10	85.38.060
	202	70.02.030		30	88.02.030		38	47.17.695		3	28A.630.756		11	85.38.070
	203	70.02.040		31	88.02.070		39	47.17.717		4	28A.630.759		12	85.38.090
	204	70.02.050		32	88.02.035		40	47.17.727		5	28A.630.762		13	85.38.110
	205	70.02.060		33	88.02.220		41	47.17.730		6	28A.630.765		14	85.38.120
	206	70.02.070		34	<i>Eff. date</i>		42	47.17.752		7	28A.630.768		15	85.38.125
	301	70.02.080			n46.01.140		43	47.17.755		8	28A.630.771		16	85.38.130
	302	70.02.090	340	1	<i>Intent</i>		44	47.17.757		9	28A.630.774		17	85.38.180
	401	70.02.100			n74.13.045		45	47.17.807		10	28A.630.777		18	<i>Repealer</i>
	402	70.02.110		2	74.13.045		46	47.17.824		11	28A.630.780		19	<i>Leg. rev.</i>
				3	13.34.110					12	28A.630.783		20	85.05.410

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	21	85.06.380		9	<i>Short t.</i>		15	15.60.170		81	36.77.075		146	71.05.135
	22	85.08.320			43.185A.900		16	19.27.160		82	36.78.020		147	71.24.045
	23	85.24.080		10	43.185A.010		17	26.12.050		83	36.78.040		148	72.09.300
	24	86.09.283		11	43.185A.020		18	27.24.062		84	36.79.140		149	72.09.050
350	1	90.03.383		12	43.185A.030		19	27.24.068		85	36.80.010		150	74.20.210
	2	90.03.386		13	43.185A.040		20	28A.315.450		86	36.81.130		151	76.12.030
	3	90.03.390		14	43.185A.050		21	28A.315.460		87	36.82.020		152	79.08.170
	4	<i>Contingency</i>		15	43.185A.060		22	28A.315.580		88	36.82.160		153	81.100.030
351	1	<i>Temporary</i>		16	43.185A.070		23	28A.315.590		89	36.87.020		154	81.100.060
	2	<i>Em.</i>		17	43.185A.080		24	28A.315.600		90	36.88.305		155	81.104.030
352	1	79.71.010		18	<i>Sev.</i>		25	28A.315.610		91	36.93.030		156	<i>Vetoed</i>
	2	79.71.020			43.185A.901		26	28A.315.620		92	36.93.040		157	81.104.140
	3	79.71.030		19	43.185A.902		27	28A.315.630		93	36.93.051		158	82.14.045
	4	79.71.050		20	<i>Leg. dir.</i>		28	28A.315.670		94	36.93.061		159	82.44.150
	5	79.71.060	357	1	67.28.080		29	28A.315.680		95	36.93.063		160	87.19.020
	6	79.71.070		2	67.28.125		30	29.04.200		96	36.93.100		161	88.32.230
	7	79.71.080		3	36.32.267		31	29.10.180		97	36.93.140		162	53.31.911
	8	79.71.090		4	67.28.270		32	29.13.060		98	36.95.020		163	<i>Repealer</i>
	9	<i>Temporary</i>		5	<i>Eff. date</i>		33	29.30.060		99	<i>Purpose</i>		164	<i>Repealer</i>
	10	n79.71.090			<i>Applic.</i>		34	29.42.050			36.105.010		165	<i>Eff. dates</i>
	11	<i>Repealer</i>			n67.28.080		35	29.42.070		100	36.105.020			n28A.315.670
	12	<i>Failed to become law. See 1991 c 352 s 13.</i>	358	1	43.88.030		36	29.82.060		101	36.105.030		166	<i>Exp. dates</i>
				2	43.88.110		37	35.21.010		102	36.105.040			n36.16.030
				3	43.88.120		38	35.21.422		103	36.105.050		167	<i>Leg. dir.</i>
				4	43.88.160		39	35.58.040		104	36.105.060		168	n2.32.180
				5	47.05.070		40	35.58.273		105	36.105.070	364	1	<i>Temporary</i>
353	1	28B.15.515		6	43.88.020		41	35.81.010		106	36.105.080		2	<i>Vetoed</i>
	2	28B.15.502		7	43.88.122		42	<i>Vetoed</i>		107	36.105.090		3	<i>Vetoed</i>
	3	<i>Eff. date</i>		8	<i>Eff. date</i>		43	36.01.130		108	36.105.100		4	<i>Failed to become law.</i>
		n28B.15.515			n43.88.030		44	36.13.020		109	39.04.155			<i>See 1991</i>
354	1	3.34.010	359	1	67.70.040		45	36.13.100		110	39.04.190			<i>c 364 s 19.</i>
355	1	31.45.010		2	<i>Em.</i>		46	36.16.030		111	39.04.200		5	74.13.034
	2	<i>Applic.</i>	360	1	<i>Vetoed</i>		47	36.16.030		112	39.30.045		6	43.20A.770
		31.45.020		2	35.02.125		48	36.16.032		113	40.04.100		7	<i>Findings</i>
	3	31.45.030		3	35.02.130		49	36.16.050		114	41.14.040			n70.96A.020
	4	31.45.040		4	35.02.132		50	36.16.140		115	41.14.065		8	70.96A.020
	5	31.45.050		5	35.02.135		51	36.17.010		116	41.14.070		9	70.96A.095
	6	31.45.060		6	35.02.260		52	36.17.020		117	41.14.210		10	70.96A.140
	7	31.45.070		7	35.02.202		53	36.17.040		118	41.28.020		11	71.05.210
	8	31.45.080		8	35.02.210		54	36.24.175		119	41.56.030		12	71.34.060
	9	31.45.090		9	35.02.220		55	36.27.060		120	42.23.030		13	<i>Constr.</i>
	10	31.45.100		10	52.02.020		56	36.28A.020		121	43.99C.045			n70.96A.020
	11	31.45.110		11	35.02.137		57	36.32.240		122	46.09.240		14	13.32A.196
	12	31.45.120		12	35.02.270		58	36.32.250		123	46.52.100		15	n70.96A.020
	13	31.45.130		13	<i>Em.</i>		59	36.32.350		124	47.26.121		16	<i>Contingency</i>
	14	31.45.140	361	1	3.34.060		60	<i>Vetoed</i>		125	47.76.030		17	<i>Vetoed</i>
	15	31.45.150		2	<i>Vetoed</i>		61	36.32.256		126	47.76.040		18	<i>Vetoed</i>
	16	31.45.160	362	1	75.28.010		62	36.32.245		127	47.76.160		19	<i>Contingency</i>
	17	31.45.170		2	75.28.710		63	36.32.253		128	53.12.010		20	<i>Vetoed</i>
	18	31.45.180		3	<i>Temporary</i>		64	36.33.060		129	53.12.020		365	1
	19	<i>Finding</i>		4	<i>Vetoed</i>		65	36.33.065		130	53.12.035		2	41.50.500
		31.45.190	363	1	<i>Purpose</i>		66	36.34.020		131	53.12.035		3	41.50.510
	20	31.45.200			n2.32.180		67	36.34.050		132	53.25.100		4	41.50.530
	21	19.60.066		2	2.32.180		68	36.34.080		133	53.31.020		5	41.50.540
	22	42.17.313		3	2.32.280		69	36.34.090		134	53.49.010		6	41.50.550
	23	<i>Leg. dir.</i>		4	3.30.020		70	36.34.100		135	54.16.180		7	41.50.560
	24	<i>Eff. date</i>		5	3.38.030		71	36.47.040		136	56.04.120		8	41.50.580
		31.45.900		6	3.74.940		72	36.56.010		137	57.90.010		9	41.50.590
356	1	43.185.010		7	7.06.010		73	36.57A.020		138	67.28.090		10	41.50.600
	2	43.185.015		8	8.04.080		74	36.58.030		139	67.28.180		11	41.50.620
	3	43.185.030		9	9.73.220		75	36.58.100		140	67.28.240		12	41.50.630
	4	43.185.050		10	13.04.035		76	36.62.300		141	70.46.030		13	41.50.650
	5	43.185.070		11	13.04.093		77	36.64.060		142	70.54.180		14	41.50.670
	6	43.185.080		12	13.20.010		78	36.64.070		143	70.94.053		15	41.50.680
	7	43.185.120		13	13.20.060		79	36.69.010		144	70.94.055		16	41.50.690
	8	43.185.910		14	13.70.005		80	36.70.540		145	70.142.040			41.50.700

**Codification Tables: 1991 Regular Session Laws—RCW**

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	17	41.50.710		19	<i>Failed to</i>
	18	2.10.180			<i>become law.</i>
	19	2.12.090			<i>See 1991</i>
	20	41.26.180			<i>c 367 s 52.</i>
	21	41.32.590	20	26.18.100	
	22	41.40.380	21	26.18.110	
	23	43.43.310	22	26.18.140	
	24	26.09.138	23	<i>Vetoed</i>	
	25	41.50.720	24	<i>Vetoed</i>	
	26	6.27.150	25	26.19.020	
	27	41.40.270	26	26.19.025	
	28	41.40.700	27	26.19.035	
	29	41.32.520	28	<i>Vetoed</i>	
	30	41.32.805	29	<i>Vetoed</i>	
	31	41.26.510	30	26.19.045	
	32	43.43.280	31	26.19.055	
	33	41.32.550	32	<i>Vetoed</i>	
	34	41.32.555	33	26.19.065	
	35	41.26.030	34	<i>Vetoed</i>	
	36	<i>Leg. dir.</i>	35	<i>Vetoed</i>	
	37	<i>Sev.</i>	36	<i>Vetoed</i>	
		n41.50.500	37	26.21.230	
366	1	<i>Finding</i>	38	26.23.035	
		n28A.300.250	39	26.23.050	
101		<i>Failed to</i>	40	26.23.060	
		<i>become law.</i>	41	26.23.070	
		<i>See 1991</i>	42	26.23.100	
		<i>c 366 s 505.</i>	43	26.23.130	
201		<i>Finding</i>	44	74.20.220	
301		<i>Vetoed</i>	45	74.20.310	
302		<i>Failed to</i>	46	74.20A.055	
		<i>become law.</i>	47	74.20A.059	
		<i>See 1991</i>	48	74.20A.095	
		<i>c 366 s 507.</i>	49	<i>Repealer</i>	
401		<i>Finding</i>	50	<i>Vetoed</i>	
		n28A.300.250	51	<i>Leg. dir.</i>	
402		28A.300.250	52	<i>Contingency</i>	
501		<i>Temporary</i>	53	<i>Vetoed</i>	
502		n28A.300.250	54	<i>Sev.</i>	
503		<i>Sev.</i>		n26.09.015	
		n28A.300.250	55	<i>Eff. date</i>	
504		<i>Eff. date</i>		n26.09.015	
		n28A.300.250	56	<i>Leg. dir.</i>	
505		<i>Contingency</i>	57	n26.09.015	
506		<i>Contingency</i>			
507		<i>Contingency</i>			
508		<i>Vetoed</i>			
367	1	<i>Vetoed</i>			
	2	26.09.015			
	3	<i>Vetoed</i>			
	4	26.09.160			
	5	<i>Vetoed</i>			
	6	26.09.175			
	7	26.09.184			
	8	<i>Vetoed</i>			
	9	26.09.260			
	10	26.09.280			
	11	26.12.010			
	12	26.12.060			
	13	26.12.170			
	14	26.12.190			
	15	26.12.220			
	16	26.12.205			
	17	26.12.175			
	18	26.12.215			

**Codification Tables: 1991 1st Special Session Laws—RCW**

**1991 1ST SPECIAL SESSION LAWS**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
1	1 43.03.011	19	74.46.700	27	43.31A.400	88	28B.10.882		<i>Act</i>
	2 43.03.012	20	<i>Repealer</i>	28	70.94.656	89	59.22.030		<i>(Uncod.)</i>
	3 43.03.013	21	<i>Eff. date</i>	29	51.44.170	90	70.148.020	63	<i>Sev.</i>
2			n18.51.050	30	82.14.320	91	4.92.220	64	<i>Em.</i>
1-801	<i>Omnibus</i>	9	1 82.65.010	31	76.04.630	92	4.92.130	15 1-45	<i>Par. veto</i>
	<i>Approp.</i>	2	2 82.65.020	32	43.33A.160	93	43.84.051		<i>Omnibus</i>
	<i>Act</i>	3	3 82.65.030	33	43.83B.360	94	43.79.130		<i>Approp.</i>
	<i>(Uncod.)</i>	4	<i>Exp. date</i>	34	82.14.050	95	28B.35.751		<i>Act</i>
802	<i>Sev.</i>		82.65.040	35	43.19.610	96	43.79.110		<i>(Uncod.)</i>
803	<i>Em.</i>	5	<i>Savings</i>	36	27.34.090	97	28B.20.800	46	46.68.110
3 1-9	<i>Omnibus</i>	6	82.65.900	37	82.42.090	98	41.24.030	47	46.68.120
	<i>Approp.</i>	7	<i>Leg. dir.</i>	38	47.68.236	99	28B.10.868	48-60	<i>Uncod.</i>
	<i>Act</i>	8	74.09.700	39	43.79.201	100	41.05.120		<i>Approp.</i>
	<i>(Uncod.)</i>	9	74.09.730	40	70.93.180	101	41.04.260	61	47.76.040
10	<i>Sev.</i>	10	74.09.731	41	46.08.172	102	90.50A.020	62	47.76.050
11	<i>Em.</i>	10	<i>Approp.</i>	42	43.99.040	103	2.14.080	63	47.76.060
4	1 70.47.030	11	<i>Eff. dates</i>	43	43.83A.030	104	46.68.210	64	47.76.070
	2 70.47.060		n82.65.010	44	43.99F.030	105	81.100.070	65	47.76.080
	3 70.47.110	10	1 74.04.005	45	28B.10.851	106	28B.20.468	66	47.76.090
	4 <i>Eff. date</i>	2	<i>Sev.</i>	46	43.83.020	107	28B.108.050	67	<i>Par. veto</i>
	n70.47.030	3	n74.04.005	47	28B.50.360	108	28B.50.837		46.61.165
5	1 48.05.340		3 <i>Eff. date</i>	48	28B.50.360	109	28B.50.837	68	81.104.100
	2 48.15.090	11	n74.04.005	49	28B.35.370	110	28B.108.060	69	<i>Constr.</i>
	3 <i>Eff. date</i>	1	<i>Purpose</i>	50	28B.30.730	111	41.48.065		<i>Sev.</i>
	n48.05.340		n41.26.090	51	28B.57.050	112	41.48.060		n46.68.110
6	1 18.160.090	2	<i>Repealer</i>	52	43.99.060	113	28A.520.020	70	<i>Em.</i>
	2 <i>Repealer</i>	3	41.26.030	53	43.83B.030	114	2.10.080	16	
	3 <i>Em.</i>	4	41.26.090	54	43.83C.030	115	43.160.080	1-916	<i>Par. veto</i>
7	1 77.32.101	5	41.26.160	55	43.83D.030	116	74.18.230		<i>Omnibus</i>
	2 77.32.161	6	41.32.550	56	43.83H.030	117	28B.20.253		<i>Approp.</i>
	3 77.32.191	7	<i>Eff. dates</i>	57	43.84.092	118	79.71.090		<i>Act</i>
	4 77.32.211		n41.26.090	58	28A.515.320	119	81.100.070		<i>(Uncod.)</i>
	5 77.32.230	12	1 41.26.030	59	50.16.010	120	47.76.160	917	9.46.100
	6 77.32.240	2	41.26.162	60	43.200.080	121	47.78.010	918	41.60.050
	7 77.32.256	3	<i>Repealer</i>	61	70.146.030	122	<i>Repealer</i>	919	43.08.250
	8 77.32.340	13	1 70.39.170	62	70.164.030	123	<i>Vetoed</i>	920	43.09.270
	9 77.32.350	2	18.08.240	63	79.90.555	124	<i>Vetoed</i>	921	43.19.1923
	10 77.32.360	3	43.79.330	64	70.94.483	125	<i>Vetoed</i>	922	43.51.280
	11 77.32.370	4	43.51.280	65	70.94.483	126	<i>Vetoed</i>	923	70.146.080
	12 77.32.380	5	40.14.025	66	47.78.010	127	<i>Vetoed</i>	924	74.13.0903
	13 46.16.606	6	43.51.310	67	22.09.411	128	<i>Vetoed</i>	925	82.49.030
	14 <i>Eff. date</i>	7	43.140.030	68	70.47.030	129	<i>Vetoed</i>	926	<i>Sev.</i>
	n77.32.101	8	28B.14D.040	69	70.105D.070	130	<i>Vetoed</i>		n9.46.100
8	1 18.51.050	9	46.10.075	70	2.14.070	131	<i>Vetoed</i>	927	<i>Eff. date</i>
	2 18.51.310	10	72.72.030	71	70.170.080	132	<i>Vetoed</i>		n9.46.100
	3 43.190.020	11	67.40.040	72	90.76.100	133	<i>Vetoed</i>	17	1 n84.55.050
	4 70.38.105	12	28B.10.821	73	70.95.800	134	<i>Vetoed</i>	18	1 42.17.020
	5 74.08.044	13	43.88.525	74	59.21.050	135	<i>Vetoed</i>		2 42.17.170
	6 74.09.250	14	58.24.060	75	70.95E.080	136	<i>Vetoed</i>		3 42.17.2415
	7 74.09.260	15	82.14.200	76	28B.30.741	137	<i>Vetoed</i>		4 42.17.243
	8 74.09.510	16	82.14.210	77	28B.30.742	138	<i>Vetoed</i>		5 <i>Vetoed</i>
	9 74.09.520	17	18.72.390	78	28B.20.810	139	<i>Vetoed</i>	19	1 62A.4-406
	10 74.09.700	18	43.70.320	79	43.63A.380	140	<i>Sev.</i>	20	1 1.16.050
	11 74.46.020	19	74.18.230	80	28B.14C.060		n70.39.170	21	
	12 74.46.380	20	18.04.105	81	43.79A.020	141	<i>Eff. dates</i>	4A-101	<i>Short t.</i>
	13 74.46.660	21	43.79.445	82	43.79A.040		n70.39.170		62A.4A-101
	14 74.46.210	22	47.76.030	83	43.08.190	142	<i>Exp. dates</i>	4A-102	62A.4A-102
	15 74.46.410	23	43.51.200	84	90.48.390		n70.94.483	4A-103	62A.4A-103
	16 74.46.481	24	86.26.007	85	28C.10.082	14 1-62	<i>Par. veto</i>	4A-104	62A.4A-104
	17 74.46.530	25	43.08.250	86	43.250.030		<i>Omnibus</i>	4A-105	62A.4A-105
	18 74.46.360	26	84.33.041	87	43.185.030		<i>Approp.</i>	4A-106	62A.4A-106

**Codification Tables: 1991 1st Special Session Laws—RCW**

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
4A-107	62A.4A-107	26	1 82.14.320		28	4.28.080	38 <i>Temporary</i>
4A-108	62A.4A-108		2 <i>Vetoed</i>		29	<i>Leg. dir.</i>	39 36.70A.380
4A-201	62A.4A-201		3 n82.14.320		30	<i>Eff. date</i>	40 36.70A.902
4A-202	62A.4A-202		4 <i>Sev.</i>			48.62.900	41 <i>Leg. dir.</i>
4A-203	62A.4A-203		n82.14.320		31	48.62.125	42 <i>Em.</i>
4A-204	62A.4A-204		5 <i>Em.</i>		32	<i>Sev.</i>	
4A-205	62A.4A-205	27	1 28B.125.020			48.62.901	
4A-206	62A.4A-206		2 <i>Repealer</i>		33	<i>Repealer</i>	
4A-207	62A.4A-207		3 <i>Vetoed</i>	31	1	43.99I.010	
4A-208	62A.4A-208		4 <i>Vetoed</i>		2	43.99I.020	
4A-209	62A.4A-209	28	1 26.09.100		3	43.99I.030	
4A-210	62A.4A-210		2 26.09.170		4	43.99I.040	
4A-211	62A.4A-211		3 26.09.225		5	43.99I.050	
4A-212	62A.4A-212		4 26.19.011		6	43.99I.060	
4A-301	62A.4A-301		5 26.19.071		7	43.99I.070	
4A-302	62A.4A-302		6 26.19.075		8	43.99I.080	
4A-303	62A.4A-303		7 26.19.090		9	28B.14D.900	
4A-304	62A.4A-304		8 <i>Repealer</i>		10	43.01.090	
4A-305	62A.4A-305		9 <i>Sev.</i>		11	<i>Temporary</i>	
4A-401	62A.4A-401		n26.09.100		12	46.08.172	
4A-402	62A.4A-402	10	<i>Eff. date</i>		13	43.99H.030	
4A-403	62A.4A-403		n26.09.100		14	43.99H.040	
4A-404	62A.4A-404		11 n26.09.100		15	43.99H.060	
4A-405	62A.4A-405	29	1 <i>Findings</i>		16	84.52.065	
4A-406	62A.4A-406		<i>Intent</i>		17	77.12.190	
4A-501	62A.4A-501		n84.04.150		18	<i>Sev.</i>	
4A-502	62A.4A-502		2 84.04.150			43.99I.900	
4A-503	62A.4A-503		3 84.36.600		19	<i>Leg. dir.</i>	
4A-504	62A.4A-504		4 84.40.037		20	<i>Em.</i>	
4A-505	62A.4A-505		5 n84.36.600	32	1	36.70A.200	
4A-506	62A.4A-506		6 84.36.815		2	36.70A.210	
4A-507	62A.4A-507		7 <i>Uncod.</i>		3	36.70A.190	
4A-508	<i>Leg. dir.</i>		8 <i>Sev.</i>		4	36.70A.103	
22	1 <i>Intent</i>		n84.04.150		5	36.70A.250	
	n82.45A.010		9 <i>Applic.</i>		6	36.70A.260	
	2 82.45A.010		n84.04.150		7	36.70A.270	
	3 82.45A.020	10	<i>Em.</i>		8	36.70A.106	
	4 82.45A.030	30	1 <i>Intent</i>		9	36.70A.280	
	5 <i>Leg. dir.</i>		<i>Constr.</i>		10	36.70A.290	
	6 <i>Em.</i>		48.62.011		11	36.70A.300	
23	1 <i>Findings</i>		2 48.62.021		12	36.70A.310	
	n19.94.150		3 48.62.031		13	36.70A.320	
	2 <i>Intent</i>		4 48.62.041		14	36.70A.330	
	n19.94.150		5 48.62.051		15	36.70A.045	
	3 <i>Temporary</i>		6 48.62.061		16	36.70A.350	
	4 19.94.150		7 48.62.071		17	36.70A.360	
	5 19.94.160		8 48.62.081		18	36.70A.370	
	6 19.94.190		9 48.62.091		19	<i>Vetoed</i>	
	7 19.94.200		10 48.62.101		20	36.70A.385	
	8 19.94.220		11 48.62.111		21	36.70A.060	
	9 19.94.240		12 48.62.121		22	36.93.230	
	10 19.94.250		13 48.62.131		23	43.155.070	
	11 19.94.260		14 48.62.141		24	70.146.070	
	12 19.94.290		15 48.62.151		25	43.17.250	
	13 19.94.300		16 48.62.161		26	36.70A.340	
	14 19.94.330		17 48.62.171		27	43.88.110	
	15 19.94.340		18 41.04.180		28	19.27.097	
	16 19.94.350		19 35.23.460		29	36.70A.110	
	17 19.94.420		20 35A.41.020		30	43.62.035	
	18 19.94.440		21 36.32.400		31	36.79.150	
	19 19.94.450		22 53.08.170		32	47.26.080	
24	1 84.36.041		23 54.04.050		33	82.46.035	
	2 <i>Em.</i>		24 56.08.100		34	66.08.190	
25	1 46.30.020		25 57.08.100		35	82.14.215	
	2 46.30.040		26 43.09.260		36	82.08.180	
	3 46.63.151		27 39.58.080		37	<i>Temporary</i>	



# DISPOSITION OF FORMER RCW SECTIONS

This table contains a numerical list of RCW sections no longer appearing in the code because of the repeal, expiration, decodification, or recodification of the sections. Each entry gives the affected RCW number, its caption, and the section's session law source and disposition. The text of the section can be found by referring to the session law source citation contained in brackets.

└── section number
└── caption
└── session law source  
**2.36.031 Grand jury—How summoned.** [1951 c 90 § 1.] Repealed  
 by 1971 ex.s. c 67 § 20. Later enactment, see RCW 10.27.030.  
└── disposition
└── similar section (where applicable)

## Title 2 COURTS OF RECORD

### Chapter 2.10 JUDICIAL RETIREMENT SYSTEM

**2.10.095 Payment of legal and medical expenses of system.** [1984 c 184 § 3.] Repealed by 1991 c 35 § 3.

### Chapter 2.12 RETIREMENT OF JUDGES—RETIREMENT SYSTEM

**2.12.070 Investment of fund.** [1981 c 3 § 23; 1955 c 221 § 1; 1937 c 229 § 8; RRS § 11054-8.] Repealed by 1991 c 35 § 3.

**2.12.080 Payment of legal and medical expenses of system.** [1984 c 184 § 4.] Repealed by 1991 c 35 § 3.

### Chapter 2.42 INTERPRETERS IN LEGAL PROCEEDINGS

**2.42.020 Definitions.** [1989 c 358 § 13; 1983 c 222 § 2; 1973 c 22 § 2.] Repealed by 1991 c 171 § 5.

**2.42.030 Appointment of interpreters.** [1973 c 22 § 3.] Repealed by 1991 c 171 § 5.

**2.42.040 Interpreters—Compensation and expenses—Costs.** [1973 c 22 § 4.] Repealed by 1991 c 171 § 5.

**2.42.200 Legislative declaration—Intent.** [1989 c 358 § 1.] Recodified as RCW 2.43.010 pursuant to 1990 c 183 § 2.

**2.42.210 Definitions.** [1989 c 358 § 2.] Recodified as RCW 2.43.020 pursuant to 1990 c 183 § 2.

**2.42.220 Appointment of interpreter.** [1989 c 358 § 3.] Recodified as RCW 2.43.030 pursuant to 1990 c 183 § 2.

**2.42.230 Fees and expenses—Who shall bear cost of providing interpreter.** [1989 c 358 § 4.] Recodified as RCW 2.43.040 pursuant to 1990 c 183 § 2.

**2.42.240 Oath.** [1989 c 358 § 5.] Recodified as RCW 2.43.050 pursuant to 1990 c 183 § 2.

**2.42.250 Waiver of right to interpreter.** [1989 c 358 § 6.] Recodified as RCW 2.43.060 pursuant to 1990 c 183 § 2.

**2.42.260 Testing, certification of interpreters—List of certified interpreters to be maintained.** [1989 c 358 § 7.] Recodified as RCW 2.43.070 pursuant to 1990 c 183 § 2.

**2.42.270 Code of ethics.** [1989 c 358 § 8.] Recodified as RCW 2.43.080 pursuant to 1990 c 183 § 2.

## Title 7 SPECIAL PROCEEDINGS AND ACTIONS

### Chapter 7.64 REPLEVIN

**7.64.060 Justification of defendant's sureties.** [1957 c 51 § 16; Code 1881 § 147; 1877 p 31 § 147; 1869 p 36 § 145; 1854 p 151 § 105; RRS § 712.] Repealed by 1990 c 227 § 10.

**7.64.080 Building may be broken open.** [Code 1881 § 149; 1877 p 31 § 149; 1869 p 37 § 147; 1854 p 151 § 107; RRS § 714.] Repealed by 1990 c 227 § 10.

**7.64.090 Sheriff's duty as to property.** [Code 1881 § 150; 1877 p 32 § 150; 1869 p 37 § 148; 1854 p 151 § 108; RRS § 715.] Repealed by 1990 c 227 § 10.

**7.64.120 Remedies of plaintiff additional.** [1979 ex.s. c 132 § 7.] Repealed by 1990 c 227 § 10.

## Title 9 CRIMES AND PUNISHMENTS

### Chapter 9.45 FRAUDS AND SWINDLES

**9.45.180 Fraud in operating coin—box telephone or other receptacle.** [1929 c 184 § 1; RRS § 5842-1.] Recodified as RCW 9.26A.120, pursuant to 1990 c 11 § 5.

**9.45.190 Penalty for manufacture or sale of slugs to be used for coin.** [1929 c 184 § 2; RRS § 5842-2.] Recodified as RCW 9.26A.130, pursuant to 1990 c 11 § 5.

**9.45.240 Fraud in obtaining telephone or telegraph service—Penalty.** [1990 c 11 § 2; 1981 c 252 § 1; 1977 ex.s. c 42 § 1; 1974 ex.s. c 160 § 2; 1972 ex.s. c 75 § 1; 1955 c 114 § 1.] Recodified as RCW 9.26A.110, pursuant to 1990 c 11 § 5.

### Chapter 9.95B INTERSTATE PAROLE AND PROBATION HEARING PROCEDURES

**9.95B.010 Parole or probation violations—Hearing requirements—Purpose—Report to sending state—Custody.** [1973 c 21 § 2.] Repealed by 1991 c 77 § 1.

**9.95B.020 Qualifications of bearing officers.** [1973 c 21 § 3.] Repealed by 1991 c 77 § 1.

**9.95B.030 Hearing—Notice, content—Procedure.** [1973 c 21 § 4.] Repealed by 1991 c 77 § 1.

**9.95B.040 Hearings by other states—Effect on this state.** [1973 c 21 § 5.] Repealed by 1991 c 77 § 1.

**9.95B.900 Effective date—1973 c 21.** [1973 c 21 § 6.] Repealed by 1991 c 77 § 1.

## Title 11 PROBATE AND TRUST LAW

### Chapter 11.44 INVENTORY AND APPRAISEMENT

**11.44.061 Value for appraisal and inheritance tax purposes.** [1965 c 145 § 11.44.060.] Repealed by 1990 c 180 § 10.

### Chapter 11.76 SETTLEMENT OF ESTATES

**11.76.090 Distribution of five thousand dollars or less to minor.** [1988 c 29 § 4; 1974 ex.s. c 117 § 11; 1971 c 28 § 2; 1965 c 145 § 11.76.090. Prior: 1941 c 206 § 2; Rem. Supp. 1941 § 1534-1.] Repealed by 1991 c 193 § 31, effective July 1, 1991.

### Chapter 11.86 DISCLAIMER OF INTERESTS

**11.86.075 Disclaimer more than nine months after death of transferor—Effect on inheritance tax.** [1979 ex.s. c 209 § 49.] Repealed by 1990 c 180 § 10.

### Chapter 11.93 UNIFORM GIFTS TO MINORS ACT (LATER ENACTMENT, SEE CHAPTER 11.114 RCW)

**11.93.010 Definitions.** [1985 c 30 § 12. Prior: 1984 c 149 § 16; 1971 ex.s. c 292 § 30; 1967 ex.s. c 88 § 1; 1959 c 202 § 1. Formerly RCW 21.24.010.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.020 Manner of making or providing for gift.** [1985 c 30 § 13. Prior: 1984 c 149 § 17; 1967 ex.s. c 88 § 2; 1959 c 202 § 2. Formerly RCW 21.24.020.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.030 Effect of gift.** [1985 c 30 § 14. Prior: 1984 c 149 § 18; 1967 ex.s. c 88 § 3; 1959 c 202 § 3. Formerly RCW 21.24.030.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.040 Duties and powers of custodian.** [1985 c 30 § 15. Prior: 1984 c 149 § 19; 1971 ex.s. c 292 § 31; 1967 ex.s. c 88 § 4; 1959 c 202 § 4. Formerly RCW 21.24.040.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.050 Custodian's expenses, compensation, bond, and liabilities.** [1985 c 30 § 16. Prior: 1984 c 149 § 20; 1959 c 202 § 5. Formerly RCW 21.24.050.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.060 Exemption of third persons from liability.** [1985 c 30 § 17. Prior: 1984 c 149 § 21; 1967 ex.s. c 88 § 5; 1959 c 202 § 6. Formerly RCW 21.24.060.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.070 Resignation, death, or removal of custodian—Bond—Appointment of successor custodian.** [1985 c 30 § 18. Prior: 1984 c 149 § 22; 1971 ex.s. c 292 § 32; 1967 ex.s. c 88 § 6; 1959 c 202 § 7. Formerly RCW 21.24.070.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.080 Accounting by custodian.** [1985 c 30 § 19. Prior: 1984 c 149 § 23; 1959 c 202 § 8. Formerly RCW 21.24.080.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.900 Short title.** [1985 c 30 § 20. Prior: 1959 c 202 § 10. Formerly RCW 21.24.100.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.910 Construction—1959 c 202.** [1985 c 30 § 21. Prior: 1959 c 202 § 9. Formerly RCW 21.24.090.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.911 Construction—1967 ex.s. c 88.** [1985 c 30 § 22. Prior: 1967 ex.s. c 88 § 7. Formerly RCW 21.24.091.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.912 Custodianships established prior to January 1, 1985—Construction.** [1985 c 30 § 23. Prior: 1984 c 149 § 25.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

**11.93.920 Severability—1959 c 202.** [1985 c 30 § 24. Prior: 1959 c 202 § 11. Formerly RCW 21.24.900.] Repealed by 1991 c 193 § 27, effective July 1, 1991.

**Savings—1991 c 193:** See RCW 11.114.902.

## Title 13 JUVENILE COURTS AND JUVENILE OFFENDERS

### Chapter 13.70 SUBSTITUTE CARE OF CHILDREN—REVIEW BOARD SYSTEM

**13.70.900 Expiration date—1989 1st ex.s. c 17 §§ 1-16.** [1989 1st ex.s. c 17 § 19.] Repealed by 1991 c 127 § 7.

## Title 15 AGRICULTURE AND MARKETING

### Chapter 15.35 WASHINGTON STATE MILK POOLING ACT

**15.35.020 Declaration of public interest.** [1971 ex.s. c 230 § 2.] Repealed by 1991 c 239 § 17.

**15.35.040 Authority to establish marketing areas with pooling arrangements.** [1971 ex.s. c 230 § 4.] Repealed by 1991 c 239 § 17.

**15.35.050 Statements as legislative determination.** [1971 ex.s. c 230 § 5.] Repealed by 1991 c 239 § 17.

### Chapter 15.52 WASHINGTON ANIMAL REMEDY ACT

**15.52.010 Definitions.** [1961 c 11 § 15.52.010. Prior: (i) 1939 c 211 § 5; RRS § 7016-5. (ii) 1939 c 211 § 6; RRS § 7016-6. (iii) 1949 c 167 § 1; 1939 c 211 § 9; Rem. Supp. 1949 § 7016-9. (iv) 1949 c 167 § 2, part; 1939 c 211 § 33, part; Rem. Supp. 1949 § 7016-33, part. (v) 1939 c 211 § 39; RRS § 7016-39. (vi) 1939 c 211 § 42; RRS § 7016-42. (vii) 1939 c 211 § 43; RRS § 7016-43. (viii) 1939 c 211 § 44; RRS § 7016-44.] Repealed by 1990 c 197 § 1.

**15.52.050 Right of entry—Obstructing, unlawful.** [1961 c 11 § 15.52.050. Prior: (i) 1939 c 211 § 19; RRS § 7016-19. (ii) 1939 c 211 § 20; 1919 c 101 § 8; 1909 c 201 § 9; RRS 7016-20.] Repealed by 1990 c 197 § 1.

**15.52.060 Sample taking for analysis.** [1961 c 11 § 15.52.060. Prior: 1939 c 211 § 21, part; RRS § 7016-21, part.] Repealed by 1990 c 197 § 1.

**15.52.070 Labeling samples—Findings—Copy to owner.** [1961 c 11 § 15.52.070. Prior: 1939 c 211 § 21, part; RRS § 7016-21, part.] Repealed by 1990 c 197 § 1.

**15.52.080 Brands—When distinct.** [1961 c 11 § 15.52.080. Prior: 1939 c 211 § 10; RRS § 7016-10.] Repealed by 1990 c 197 § 1.

**15.52.090 Alteration, forgery, unlawful use of brands.** [1961 c 11 § 15.52.090. Prior: (i) 1939 c 211 § 12; RRS § 7016-12. (ii) 1939 c 211 § 13; RRS § 7016-13.] Repealed by 1990 c 197 § 1.

**15.52.100 Injurious, worthless, seized products—Disposal prohibited.** [1961 c 11 § 15.52.100. Prior: (i) 1939 c 211 § 11; 1919 c 101 § 6; RRS § 7016-11. (ii) 1939 c 211 § 14; RRS § 7016-14. (iii) 1949 c 167 § 4; 1939 c 211 § 37; Rem. Supp. 1949 § 7016-37.] Repealed by 1990 c 197 § 1.

**15.52.110 Registration of brands—Fees—Renewal.** [1961 c 11 § 15.52.110. Prior: 1943 c 263 § 1, part; 1939 c 211 § 23, part; Rem. Supp. 1943 § 7016-23, part.] Repealed by 1990 c 197 § 1.

**15.52.120 Application for registration—Label contents—Exception.** [1961 c 11 § 15.52.120. Prior: (i) 1939 c 211 § 39; RRS § 7016-39. (ii) 1939 c 211 § 40; RRS § 7016-40.] Repealed by 1990 c 197 § 1.

**15.52.130 Investigation period—Sales prohibited during.** [1961 c 11 § 15.52.130. Prior: 1939 c 211 § 41; RRS § 7016-41.] Repealed by 1990 c 197 § 1.

**15.52.140 Rules, regulations by director.** [1961 c 11 § 15.52.140. Prior: 1939 c 211 § 15, part; 1919 c 101 § 9, part; 1909 c 201 § 10, part; RRS 7016-15, part.] Repealed by 1990 c 197 § 1.

**15.52.150 Refusal to register—Notice and hearing.** [1961 c 11 § 15.52.150. Prior: (i) 1939 c 211 § 15, part; 1919 c 101 § 9, part; 1909 c 201 § 10, part; RRS § 7016-15, part. (ii) 1939 c 211 § 28, part; RRS § 7016-28, part.] Repealed by 1990 c 197 § 1.

**15.52.160 Cancellation of registration—Notice and hearing.** [1961 c 11 § 15.52.160. Prior: 1939 c 211 § 28, part; RRS § 7016-28, part.] Repealed by 1990 c 197 § 1.

**15.52.170 Seizure of prohibited products—Notice—Contents.** [1961 c 11 § 15.52.170. Prior: 1939 c 211 § 22, part; RRS § 7016-22, part.] Repealed by 1990 c 197 § 1.

**15.52.180 Hearing—Evidence.** [1961 c 11 § 15.52.180. Prior: 1939 c 211 § 22, part; RRS § 7016-22, part.] Repealed by 1990 c 197 § 1.

**15.52.320 Deposit and use of funds collected.** [1988 c 254 § 4; 1985 c 57 § 2; 1961 c 11 § 15.52.320. Prior: (i) 1943 c 263 § 1, part; 1939 c 211 § 23, part; Rem. Supp. 1943 § 7016-23, part. (ii) 1939 c 211 § 25, part; RRS § 7016-25, part. (iii) 1939 c 211 § 27; RRS § 7016-27.] Repealed by 1990 c 197 § 1.

**15.52.330 Penalty.** [1961 c 11 § 15.52.330. Prior: 1939 c 211 § 56; RRS § 7016-56.] Repealed by 1990 c 197 § 1.

**15.52.340 Duty of prosecuting attorney.** [1961 c 11 § 15.52.340. Prior: 1939 c 211 § 57; RRS § 7016-57.] Repealed by 1990 c 197 § 1.

**15.52.900 Short title.** [1961 c 11 § 15.52.900. Prior: 1959 c 223 § 1.] Repealed by 1990 c 197 § 1.

## Title 16

### ANIMALS, ESTRAYS, BRANDS AND FENCES

#### Chapter 16.58

##### IDENTIFICATION OF CATTLE THROUGH LICENSING OF CERTIFIED FEED LOTS

**16.58.090 Certain cattle exempt from brand inspection.** [1971 ex.s. c 181 § 9.] Repealed by 1991 c 109 s 41.

## Title 17

### WEEDS, RODENTS AND PESTS

#### Chapter 17.24

##### INSECT PESTS AND PLANT DISEASES

**17.24.005 Definitions.** [1981 c 296 § 36.] Repealed by 1991 c 257 § 23.

**17.24.030 Power to adopt quarantine measures—Rules and regulations—Public hearing.** [1981 c 296 § 24; 1927 c 292 § 2; RRS § 2781. Prior: 1921 c 105 § 2. FORMER PART OF SECTION: 1947 c 156 § 1; Rem. Supp. 1947 § 2809-1, now codified in RCW 17.24.105. Formerly RCW 17.24.030 and 17.24.040, part.] Repealed by 1991 c 257 § 23.

**17.24.035 Director's duty to inspect for pests and disease.** [1981 c 296 § 25; 1927 c 292 § 3; RRS § 2782. Prior: 1921 c 105 § 3. Formerly RCW 17.24.020, 17.24.040, part, and 17.24.050.] Repealed by 1991 c 257 § 23.

**17.24.060 Marking containers of imported products.** [1927 c 292 § 4; RRS § 2783. Prior: 1921 c 105 § 4.] Repealed by 1991 c 257 § 23.

**17.24.070 Infected products in transit in sealed containers.** [1927 c 292 § 5; RRS § 2784. Prior: 1921 c 105 § 5.] Repealed by 1991 c 257 § 23.

**17.24.080 Inspection of imported products—Notice to inspector—Holding for inspection.** [1927 c 292 § 6; RRS § 2785. Prior: 1921 c 105 § 6, part. Formerly RCW 17.24.080 and 17.24.090.] Repealed by 1991 c 257 § 23.

**17.24.105 Authority to apply quarantine control methods.** [1981 c 296 § 27; 1947 c 156 § 1; Rem. Supp. 1947 § 2809-1. Prior: 1945 c 9 § 1; 1941 c 11 § 1. Formerly RCW 17.24.030, part.] Repealed by 1991 c 257 § 23.

**17.24.110 Director's cooperation with other agencies.** [1981 c 296 § 28; 1977 ex.s. c 169 § 5; 1947 c 156 § 2; Rem. Supp. 1947 § 2809-2. Prior: 1945 c 9 § 2.] Repealed by 1991 c 257 § 23.

**17.24.120 Acquisition of lands, water supplies, and other property, for quarantine farms.** [1947 c 156 § 3; Rem. Supp. 1947 § 2809-3. Prior: 1945 c 9 § 3.] Repealed by 1991 c 257 § 23.

**17.24.130 Fees for services.** [1947 c 156 § 4; Rem. Supp. 1947 § 2809-4. Prior: 1945 c 9 § 4.] Repealed by 1991 c 257 § 23.

**17.24.140 Funds for technical and scientific services.** [1981 c 296 § 29; 1947 c 156 § 5; Rem. Supp. 1947 § 2809-5. Prior: 1945 c 9 § 5.] Repealed by 1991 c 257 § 23.

**17.24.200 Determination of imminent danger of infestation of plant pests or plant diseases—Emergency measures—Conditions—Procedure.** [1982 c 153 § 2.] Repealed by 1991 c 257 § 23.

## Title 18

### BUSINESSES AND PROFESSIONS

#### Chapter 18.06

##### ACUPUNCTURE

**18.06.010 Definitions.** [1985 c 326 § 1.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.020 Practice without certification unlawful.** [1985 c 326 § 2.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.030 Authority to practice irrespective of other licensing laws—Exemptions for educational purposes.** [1985 c 326 § 3.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.040 Exemptions from certification.** [1985 c 326 § 4.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.050 Applications for examination—Qualifications.** [1987 c 447 § 15; 1985 c 326 § 5.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.060 Approval of educational programs.** [1985 c 326 § 6.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.070 Approval of applications—Examination fee.** [1985 c 326 § 7.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.080 Authority of director—Examination—Contents.** [1985 c 326 § 8.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.090 Fluency in English required.** [1985 c 326 § 9.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.100 Investigation of applicant's background.** [1985 c 326 § 10.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.110 Application of uniform disciplinary act.** [1987 c 150 § 9; 1985 c 326 § 11.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.120 Annual registration—Renewal—Fee—Lapse.** [1985 c 326 § 12.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.130 Patient information form.** [1985 c 326 § 13.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.140 Consultation and referral to other health care practitioners.** [1985 c 326 § 14.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.150 Violations of RCW 18.06.130 or 18.06.140—Penalty.** [1985 c 326 § 15.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.160 Adoption of rules.** [1985 c 326 § 16.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.170 Acupuncture advisory committee.** [1985 c 326 § 17.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.180 Application of chapter to previously registered acupuncture assistants.** [1985 c 326 § 18.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.190 Reciprocal licenses.** [1985 c 326 § 19.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.200 Health care insurance benefits not mandatory.** [1985 c 326 § 20.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.210 Prescription of drugs and practice of medicine not authorized.** [1985 c 326 § 21.] Repealed by 1990 c 297 § 16, effective June 30, 1993.

**18.06.900 Termination—Sunset Act application.** [1985 c 326 § 22.] Repealed by 1990 c 297 § 26.

**18.06.901 Repealer.** [1985 c 326 § 23.] Repealed by 1990 c 297 § 26.

#### Chapter 18.16

##### COSMETOLOGISTS, BARBERS, AND MANICURISTS

**18.16.040 Staff.** [1984 c 208 § 17.] Repealed by 1991 c 324 § 24.

**18.16.120 Issuance of licenses—Persons and schools licensed under prior laws.** [1984 c 208 § 18.] Repealed by 1991 c 324 § 24.

#### Chapter 18.19

##### COUNSELORS

**18.19.010 Legislative findings—Insurance benefits not mandated.** [1987 c 512 § 1.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.020 Definitions.** [1987 c 512 § 3.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.030 Registration or certification required.** [1987 c 512 § 2.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.040 Exemptions.** [1987 c 512 § 4.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.050 Powers of director—Application of uniform disciplinary act—Public education program.** [1987 c 512 § 5.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.060 Information disclosure to clients.** [1987 c 512 § 6.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.070 Advisory committees.** [1987 c 512 § 7.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.080 Official records.** [1987 c 512 § 8.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.090 Registration of counselors and hypnotherapists.** [1987 c 512 § 9.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.100 Registration renewal.** [1987 c 512 § 10.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.110 Certification of social workers.** [1987 c 512 § 12.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.120 Certification of mental health counselors.** [1987 c 512 § 13.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.130 Certification of marriage and family therapists.** [1987 c 512 § 14.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.140 Applications for certification.** [1987 c 512 § 17.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.150 Examination of applicants for certification.** [1987 c 512 § 16.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.160 Certification of persons credentialed out-of-state—Temporary retirement of certified persons.** [1987 c 512 § 19.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.170 Renewal of certificates.** [1987 c 512 § 15.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.180 Confidential communications.** [1987 c 512 § 11.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.190 Other professions not affected.** [1987 c 512 § 18.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

**18.19.900 Short title.** [1987 c 512 § 20.] Repealed by 1990 c 297 § 14, effective June 30, 1995.

#### Chapter 18.22

##### PODIATRY

**18.22.030 Licensing—Exemptions.** [1982 c 21 § 4; 1973 c 77 § 3; 1917 c 38 § 18; RRS § 10091.] Repealed by 1990 c 147 § 20.

**18.22.050 Applicants—Educational qualifications.** [1982 c 21 § 6; 1973 c 77 § 5; 1955 c 149 § 4. Prior: 1935 c 48 § 1, part; 1921 c 120 § 2, part; 1917 c 38 § 4, part; RRS § 10077, part.] Repealed by 1990 c 147 § 20.

**18.22.081 License—Reciprocity with other states—Examinations, when.** [1985 c 7 § 12; 1982 c 21 § 12; 1975 1st ex.s. c 30 § 17; 1973 c 77 § 8; 1965 c 97 § 3.] Repealed by 1990 c 147 § 20.

**18.22.130 Record of licensees.** [1973 c 77 § 11; 1917 c 38 § 5; RRS § 10078.] Repealed by 1990 c 147 § 20.

**18.22.185 Prescriptions.** [1973 c 77 § 15; 1955 c 149 § 11.] Repealed by 1990 c 147 § 20.

**18.22.930 Persons licensed under prior law.** [1973 c 77 § 28.] Repealed by 1990 c 147 § 20.

#### Chapter 18.36A

##### NATUROPATHY

**18.36A.010 Intent.** [1987 c 447 § 1.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.020 Definitions.** [1987 c 447 § 4.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.030 License required.** [1987 c 447 § 2.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.040 Scope of practice.** [1988 c 246 § 1; 1987 c 447 § 3.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.050 Application of chapter—Exemptions.** [1987 c 447 § 5.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.060 Powers of director—Application of uniform disciplinary act.** [1987 c 447 § 6.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.070 Naturopathic advisory committee.** [1987 c 447 § 7.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.080 Immunity from civil liability for director and committee.** [1987 c 447 § 8.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.090 Requirements for licensure.** [1987 c 447 § 9.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.100 Standards for approval of educational programs.** [1987 c 447 § 10.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.110 Examination for licensure.** [1987 c 447 § 11.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.120 License standards for applicants from other jurisdictions—Reciprocity.** [1987 c 447 § 12.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.130 Application for licensure—Fee.** [1987 c 447 § 13.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

**18.36A.140 License renewal—Fee.** [1987 c 447 § 14.] Repealed by 1990 c 297 § 12, effective June 30, 1995.

#### Chapter 18.51 NURSING HOMES

**18.51.100 Nursing home advisory council—Members—Terms.** [1984 c 287 § 39; 1979 ex.s. c 211 § 65; 1971 ex.s. c 85 § 1; 1951 c 117 § 11.] Repealed by 1990 c 297 § 4, effective June 30, 1993.

**18.51.110 Nursing home advisory council—Duties.** [1979 ex.s. c 211 § 66; 1951 c 117 § 12.] Repealed by 1990 c 297 § 4, effective June 30, 1993.

#### Chapter 18.52A NURSING HOMES—NURSING ASSISTANTS TRAINING PROGRAM

**18.52A.010 Legislative finding.** [1979 c 114 § 1.] Repealed by 1991 c 16 § 16.

**18.52A.020 Definitions.** [(1991 c 3 § 122 repealed by 1991 1st sp.s. c 11 § 2); 1989 c 300 § 13; 1988 c 267 § 19; 1985 c 284 § 5; 1979 c 114 § 2.] Repealed by 1991 c 16 § 16.

**18.52A.030 Qualification requirements for employment of nursing assistants.** [(1991 c 3 § 123 repealed by 1991 1st sp.s. c 11 § 2); 1989 c 300 § 1; 1988 c 267 § 20; 1987 c 476 § 7; 1985 c 284 § 6; 1979 c 114 § 3.] Repealed by 1991 c 16 § 16.

**18.52A.040 Nursing assistant training programs.** [1989 c 300 § 2; 1979 c 114 § 4.] Repealed by 1991 c 16 § 16.

**18.52A.050 Administering medication, practicing as a registered nurse or licensed practical nurse.** [1979 c 114 § 5.] Repealed by 1991 c 16 § 16.

#### Chapter 18.52B NURSING ASSISTANTS

**18.52B.050 Exemptions.** [(1991 c 3 § 124 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 5.] Repealed by 1991 c 16 § 16.

**18.52B.080 Record of proceedings.** [(1991 c 3 § 125 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 8.] Repealed by 1991 c 16 § 16.

**18.52B.110 Approval of educational programs.** [(1991 c 3 § 126 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 11.] Repealed by 1991 c 16 § 16.

**18.52B.120 Applications.** [(1991 c 3 § 127 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 14.] Repealed by 1991 c 16 § 16.

**18.52B.150 Certification by endorsement.** [(1991 c 3 § 128 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 16.] Repealed by 1991 c 16 § 16.

**18.52B.160 Renewals.** [(1991 c 3 § 129 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 267 § 17.] Repealed by 1991 c 16 § 16.

**18.52B.900 Section captions.** [1988 c 267 § 18.] Repealed by 1991 c 16 § 16.

**18.52B.901 Severability—1988 c 267.** [1988 c 267 § 25.] Repealed by 1991 c 16 § 16.

#### Chapter 18.57

##### OSTEOPATHY—OSTEOPATHIC MEDICINE AND SURGERY

**18.57.085 Waiver of examination in clinical subjects.** [1989 c 10 § 5; 1979 c 117 § 14; 1971 ex.s. c 227 § 3.] Repealed by 1991 c 160 § 11.

#### Chapter 18.71A

##### PHYSICIAN ASSISTANTS

**18.71A.080 Performance of acupuncture.** [(1985 c 322 § 7; 1977 ex.s. c 233 § 2.) Repealed by 1990 c 196 § 9.

#### Chapter 18.72

##### MEDICAL DISCIPLINARY BOARD

**18.72.040 Board created—Composition—Legal advisor.** [1986 c 300 § 2; 1977 c 71 § 1; 1955 c 202 § 4.] Repealed by 1991 c 215 § 4.

**18.72.050 Election of members.** [1982 1st ex.s. c 30 § 3; 1977 c 71 § 2; 1955 c 202 § 5.] Repealed by 1991 c 215 § 4.

**18.72.055 Membership, effect of creation of new congressional districts or boundaries.** [1982 1st ex.s. c 30 § 4.] Repealed by 1991 c 215 § 4.

**18.72.060 Nominations.** [1979 ex.s. c 111 § 2; 1955 c 202 § 6.] Repealed by 1991 c 215 § 4.

**18.72.070 Date of election—Commencement of term.** [1955 c 202 § 7.] Repealed by 1991 c 215 § 4.

**18.72.080 Vacancies.** [1955 c 202 § 8.] Repealed by 1991 c 215 § 4.

#### Chapter 18.73

##### EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

**18.73.040 Emergency medical services committee—Created—Membership—Terms—Officers—Meetings—Travel expenses.** [1990 c 269 § 6; 1984 c 279 § 55; 1981 c 338 § 13; 1979 ex.s. c 261 § 2; 1975-'76 2nd ex.s. c 34 § 43; 1973 1st ex.s. c 208 § 4.] Repealed by 1990 c 297 § 6, effective June 30, 1993.

**18.73.050 Emergency medical services committee—Duties—Review of rules.** [1990 c 269 § 7; 1987 c 214 § 3; 1979 ex.s. c 261 § 3; 1973 1st ex.s. c 208 § 5.] Repealed by 1990 c 297 § 6, effective June 30, 1993.

**18.73.060 Planning and service regions.** [1990 c 269 § 14; 1987 c 214 § 4; 1973 1st ex.s. c 208 § 6.] Recodified as RCW 70.168.110 pursuant to 1990 c 269 § 27.

**18.73.070 Regional plan—Public hearing.** [1987 c 214 § 5; 1979 ex.s. c 261 § 5; 1973 1st ex.s. c 208 § 7.] Repealed by 1990 c 269 § 28.

**18.73.073 Local and regional emergency medical services advisory councils—Power and duties.** [1990 c 269 § 15; 1987 c 214 § 6; 1983 c 112 § 8.] Recodified as RCW 70.168.120 pursuant to 1990 c 269 § 27.

**18.73.085 Disbursement of funds to regional emergency medical services councils—Grants to nonprofit agencies—Purposes.** [1990 c 269 § 16; 1987 c 214 § 8; 1979 ex.s. c 261 § 8.] Recodified as RCW 70.168.130 pursuant to 1990 c 269 § 27.

#### Chapter 18.78

##### PRACTICAL NURSES

**18.78.110 Compensation of executive secretary—Clerical assistance.** [(1991 c 3 § 191 repealed by 1991 1st sp.s. c 11 § 2); 1983 c 55 § 12; 1975-'76 2nd ex.s. c 34 § 46; 1949 c 222 § 12; Rem. Supp. 1949 § 10173-38.] Repealed by 1991 c 84 § 14.

## Chapter 18.83

## Table of Disposition of Former RCW Sections

### Chapter 18.83 PSYCHOLOGISTS

**18.83.035 Examining board—Composition—Terms—Chairperson.** [1989 c 226 § 1; 1986 c 27 § 2; 1984 c 279 § 76.] Repealed by 1990 c 297 § 8, effective June 30, 1996.

**18.83.045 Examining board—Meetings—Quorum.** [1984 c 279 § 77.] Repealed by 1990 c 297 § 8, effective June 30, 1996.

**18.83.050 Examining board—Powers and duties.** [1986 c 27 § 3; 1984 c 279 § 78; 1965 c 70 § 5; 1955 c 305 § 5.] Repealed by 1990 c 297 § 8, effective June 30, 1996.

**18.83.051 Examining board—Compensation and travel expenses.** [1984 c 287 § 48; 1983 c 168 § 10; 1975-'76 2nd ex.s. c 34 § 48; 1969 ex.s. c 199 § 19; 1965 c 70 § 21.] Repealed by 1990 c 297 § 8, effective June 30, 1996.

### Chapter 18.84 RADIOLOGIC TECHNOLOGISTS

**18.84.900 Short title.** [1987 c 412 § 13.] Repealed by 1991 c 222 § 13, effective July 1, 1991.

### Chapter 18.150 HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM

**18.150.010 Legislative findings.** [1989 1st ex.s. c 9 § 716.] Recodified as RCW 28B.115.010, pursuant to 1991 c 332 § 36.

**18.150.020 Definitions.** [1991 c 332 § 15; 1989 1st ex.s. c 9 § 717.] Recodified as RCW 28B.115.020, pursuant to 1991 c 332 § 36.

**18.150.030 Program established—Duties of board.** [1991 c 332 § 16; 1989 1st ex.s. c 9 § 718.] Recodified as RCW 28B.115.030, pursuant to 1991 c 332 § 36.

**18.150.040 Planning committee—Developing criteria for selecting participants.** [1991 c 332 § 18; 1989 1st ex.s. c 9 § 719.] Recodified as RCW 28B.115.050, pursuant to 1991 c 332 § 36.

**18.150.050 Loan repayment awards.** [1991 c 332 § 22; 1989 1st ex.s. c 9 § 720.] Recodified as RCW 28B.115.090, pursuant to 1991 c 332 § 36.

**18.150.060 Participant obligation—Repayment obligation.** [1991 c 332 § 24; 1989 1st ex.s. c 9 § 721.] Recodified as RCW 28B.115.110, pursuant to 1991 c 332 § 36.

**18.150.070 Transfer of program administration.** [1989 1st ex.s. c 9 § 722.] Recodified as RCW 28B.115.140, pursuant to 1991 c 332 § 36.

**18.150.080 Termination of loan repayment award.** [1989 1st ex.s. c 9 § 723.] Repealed by 1991 1st sp.s. c 27 § 2.

**18.150.900 Effective date—1989 1st ex.s. c 9.** Cross-reference section recodified as RCW 28B.115.900, pursuant to 1991 c 332 § 36.

**18.150.910 Severability—1989 1st ex.s. c 9.** Cross-reference section recodified as RCW 28B.115.901, pursuant to 1991 c 332 § 36.

### Chapter 18.160 FIRE SPRINKLER SYSTEM CONTRACTORS

**18.160.060 Contractor license—Surety bond.** [1990 c 177 § 7.] Repealed by 1991 1st sp.s. c 6 § 2.

## Title 19 BUSINESS REGULATIONS— MISCELLANEOUS

### Chapter 19.26 PRERECORDED RECORDING OR TAPE

**19.26.010 Sale without name and address of recorder unlawful—Penalty.** [1971 ex.s. c 113 § 1.] Repealed by 1991 c 38 § 10. Cf. RCW 19.25.040.

[1990-91 RCW Supp—page A68]

**19.26.020 Each violation separate offense—Fine.** [1971 ex.s. c 113 § 2.] Repealed by 1991 c 38 § 10.

### Chapter 19.27A ENERGY-RELATED BUILDING STANDARDS

**19.27A.010 National codes and standards—Adoption by reference—Conflicts.** [1985 c 144 § 1; 1984 c 101 § 1; 1980 c 8 § 1; 1979 ex.s. c 76 § 1; 1977 ex.s. c 14 § 11; 1975 1st ex.s. c 110 § 8; 1974 ex.s. c 96 § 3. Formerly RCW 19.27.030.] Repealed by 1990 c 2 § 12, effective January 1, 1991.

**19.27A.030 Local energy codes superseded—Exceptions.** [1988 c 204 § 1; 1985 c 144 § 3.] Repealed by 1990 c 2 § 12, effective January 1, 1991.

**19.27A.040 Thermal transmittance testing—Study—Committee—Peer review panel—Funding.** [1988 c 204 § 2; 1985 c 144 § 4.] Repealed by 1990 c 2 § 12, effective January 1, 1991.

### Chapter 19.114 USED AUTOMOTIVE OIL RECYCLING

**19.114.010 Policy.** [1983 c 137 § 1.] Repealed by 1991 c 319 § 315.

**19.114.020 Definitions.** [1983 c 137 § 2.] Repealed by 1991 c 319 § 315.

**19.114.030 Public education—Regulation of used oil disposal—Recycling information.** [1983 c 137 § 3.] Repealed by 1991 c 319 § 315.

**19.114.040 Standard for above-ground used oil collection tanks.** [1986 c 37 § 1.] Recodified as RCW 70.951.080 pursuant to 1991 c 319 § 316.

**19.114.900 Severability—1983 c 137.** [1983 c 137 § 5.] Repealed by 1991 c 319 § 315.

### Chapter 19.118 MOTOR VEHICLE WARRANTIES

**19.118.901 Expiration date—1987 c 344.** [1987 c 344 § 19.] Repealed by 1990 c 297 § 26.

## Title 23A WASHINGTON BUSINESS CORPORATION ACT

### Chapter 23A.32 FOREIGN CORPORATIONS

**23A.32.050 Application for certificate of authority.** [1989 c 307 § 42; 1986 c 117 § 17; 1985 c 290 § 16; 1983 c 325 § 6; 1983 c 2 § 6. Prior: 1982 c 45 § 3; 1982 c 35 § 42; 1979 c 16 § 49; 1971 c 22 § 1; 1965 c 53 § 113.] Repealed by 1989 c 165 § 204, effective July 1, 1990; and repealed by 1991 c 72 § 59. Cf. RCW 23B.15.030.

## Title 25 PARTNERSHIPS

### Chapter 25.10 LIMITED PARTNERSHIPS

**25.10.380 Liability upon return of contribution.** [1987 c 55 § 29; 1981 c 51 § 38.] Repealed by 1991 c 269 § 34.

## Title 26 DOMESTIC RELATIONS

### Chapter 26.12 FAMILY COURT

**26.12.090** Jurisdiction of family court. [1983 c 219 § 2; 1949 c 50 § 9; Rem. Supp. 1949 § 997-38.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.100** Petition invoking jurisdiction or for transfer of action to family court. [1983 c 219 § 3; 1949 c 50 § 10; Rem. Supp. 1949 § 997-39.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.110** Form of petition generally. [1949 c 50 § 11; Rem. Supp. 1949 § 997-40.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.120** Allegations of petition. [1983 c 219 § 4; 1949 c 50 § 12; Rem. Supp. 1949 § 997-41.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.130** Forms to be provided—Assistance in preparing. [1949 c 50 § 13; Rem. Supp. 1949 § 997-42.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.140** Fees for filing not to be charged—Assessment of costs permitted. [1980 c 124 § 2; 1971 ex.s. c 151 § 1; 1949 c 50 § 14; Rem. Supp. 1949 § 997-43.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.150** Hearing—Time and place of—Notice—Citations. [1949 c 50 § 15; Rem. Supp. 1949 § 997-44.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.180** Orders. [1983 c 219 § 6; 1949 c 50 § 18; Rem. Supp. 1949 § 997-47.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.200** Transfer of certain actions when minor child involved. [1983 c 219 § 8; 1949 c 50 § 20; Rem. Supp. 1949 § 997-49.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

**26.12.210** Procedure in actions when no child is involved—Family court may accept case, when. [1983 c 219 § 9; 1949 c 50 § 21; Rem. Supp. 1949 § 997-50.] Repealed by 1991 c 367 § 49, effective September 1, 1991.

### Chapter 26.19 CHILD SUPPORT SCHEDULE

**26.19.010** Definitions. [1988 c 275 § 2.] Repealed by 1991 1st sp.s. c 28 § 8, effective September 1, 1991.

**26.19.030** Child support schedule commission—Membership—Travel expenses—Staff services—Expiration. [1989 c 360 § 41; 1988 c 275 § 4; 1987 c 440 § 1.] Repealed by 1990 1st ex.s. c 2 § 29, effective July 1, 1990.

**26.19.040** Economic table. [1990 1st ex.s. c 2 § 20; 1988 c 275 § 5; 1987 c 440 § 2.] Repealed by 1991 1st sp.s. c 28 § 8, effective September 1, 1991.

**26.19.060** Publication of schedule. [1988 c 275 § 7.] Repealed by 1991 1st sp.s. c 28 § 8, effective September 1, 1991.

**26.19.070** Child support determination according to this chapter. [1990 1st ex.s. c 2 § 6.] Repealed by 1991 1st sp.s. c 28 § 8, effective September 1, 1991.

**26.19.110** Combined monthly incomes higher than amount on table. [1990 1st ex.s. c 2 § 12.] Repealed by 1991 1st sp.s. c 28 § 8, effective September 1, 1991.

### Chapter 26.44 ABUSE OF CHILDREN AND ADULT DEPENDENT OR DEVELOPMENTALLY DISABLED PERSONS—PROTECTION— PROCEDURE

**26.44.070** Central registry of reported cases of child abuse or abuse of adult dependent or developmentally disabled person—Confidentiality—Notification of school administrators and licensing boards—Penalty. [1987 c 524 § 12; 1987 c 206 § 6; 1986 c 269 § 3; 1984 c 97 § 6; 1981 c 164 § 4; 1977 ex.s. c 80 § 29; 1975 1st ex.s. c 217 § 7; 1972 ex.s. c 46 § 1; 1969 ex.s. c 35 § 6.] Repealed by 1987 c 486 § 16; repealed by 1991 c 14 § 2; and repealed by 1991 c 111 § 2.

## Title 27 LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

### Chapter 27.60 1989 WASHINGTON CENTENNIAL

**27.60.060** Expenditure of funds—Authority to earn certain income and accept gifts or grants—Centennial fund. [1985 c 291 § 3; 1985 c 57 § 8; 1984 c 120 § 2.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

## Title 28A COMMON SCHOOL PROVISIONS COMPARATIVE TABLES

1990 c 33 recodified or decodified all substantive sections in Title 28A RCW, with the exception of chapters 28A.26 and 28A.900 RCW. They are now codified as follows:

Formerly	Presently
28A.01.010	28A.150.030
28A.01.020	28A.150.040
28A.01.025	28A.410.080
28A.01.055	28A.150.010
28A.01.060	28A.150.020
28A.01.100	28A.150.080
28A.01.110	28A.150.090
28A.01.130	28A.150.060
28A.02.010	28A.150.295
28A.02.020	28A.150.070
28A.02.030	28A.230.140
28A.02.050	28A.400.310
28A.02.061	28A.150.050
28A.02.070	28A.230.160
28A.02.080	28A.230.170
28A.02.090	28A.230.150
28A.02.100	28A.300.070
28A.02.110	28A.335.180
28A.02.201	28A.195.010
28A.02.220	28A.195.020
28A.02.230	28A.195.030
28A.02.240	28A.195.040
28A.02.250	28A.195.050
28A.02.260	28A.410.120
28A.02.300	28A.520.010
28A.02.310	28A.520.020
28A.02.320	28A.625.100
28A.02.325	28A.625.110
28A.03.010	28A.300.010
28A.03.020	28A.300.020
28A.03.028	28A.300.030
28A.03.030	28A.300.040
28A.03.300	28A.155.110
28A.03.310	28A.155.120
28A.03.320	28A.155.130
28A.03.350	28A.300.060
28A.03.360	28A.230.190
28A.03.365	28A.230.200
28A.03.367	28A.155.140
28A.03.370	28A.230.210
28A.03.375	28A.300.050
28A.03.415	28A.300.080

**Title 28A**

**Table of Disposition of Former RCW Sections**

Formerly	Presently	Formerly	Presently
28A.03.417	28A.300.090	28A.08.900	28A.220.900
28A.03.419	28A.300.100	28A.13.005	28A.155.010
28A.03.423	28A.240.010	28A.13.010	28A.155.020
28A.03.425	28A.300.110	28A.13.020	28A.155.030
28A.03.430	28A.625.200	28A.13.030	28A.155.040
28A.03.432	28A.625.210	28A.13.040	28A.155.050
28A.03.434	28A.625.220	28A.13.045	28A.155.060
28A.03.436	28A.625.230	28A.13.050	28A.155.070
28A.03.438	28A.625.240	28A.13.060	28A.155.080
28A.03.440	28A.600.050	28A.13.070	28A.155.090
28A.03.442	28A.600.060	28A.13.080	28A.155.100
28A.03.444	28A.600.070	28A.16.040	28A.185.010
28A.03.446	28A.600.080	28A.16.050	28A.185.020
28A.03.500	28A.300.120	28A.16.060	28A.185.030
28A.03.510	28A.300.130	28A.21.010	28A.310.010
28A.03.511	28A.300.140	28A.21.020	28A.310.020
28A.03.512	28A.300.150	28A.21.030	28A.310.030
28A.03.514	28A.300.160	28A.21.0303	28A.310.040
28A.03.520	28A.625.010	28A.21.0304	28A.310.050
28A.03.523	28A.625.020	28A.21.0305	28A.310.060
28A.03.526	28A.625.030	28A.21.0306	28A.310.070
28A.03.529	28A.625.040	28A.21.031	28A.310.080
28A.03.532	28A.625.050	28A.21.032	28A.310.090
28A.03.535	28A.625.060	28A.21.033	28A.310.100
28A.03.538	28A.625.070	28A.21.034	28A.310.110
28A.03.550	28A.615.060	28A.21.035	28A.310.120
28A.04.010	28A.305.010	28A.21.037	28A.310.130
28A.04.020	28A.305.020	28A.21.040	28A.310.140
28A.04.030	28A.305.030	28A.21.050	28A.310.150
28A.04.040	28A.305.040	28A.21.060	28A.310.160
28A.04.050	28A.305.050	28A.21.071	28A.310.170
28A.04.060	28A.305.060	28A.21.086	28A.310.180
28A.04.065	28A.305.070	28A.21.088	28A.310.190
28A.04.070	28A.305.080	28A.21.090	28A.310.200
28A.04.080	28A.305.090	28A.21.092	28A.310.210
28A.04.090	28A.305.100	28A.21.095	28A.310.220
28A.04.100	28A.305.110	28A.21.100	28A.310.230
28A.04.110	28A.305.120	28A.21.102	28A.310.240
28A.04.120	28A.305.130	28A.21.105	28A.310.250
28A.04.122	28A.410.020	28A.21.106	28A.310.260
28A.04.127	28A.305.140	28A.21.110	28A.310.270
28A.04.130	28A.305.150	28A.21.111	28A.310.280
28A.04.131	28A.160.210	28A.21.112	28A.310.290
28A.04.132	28A.305.160	28A.21.113	28A.310.300
28A.04.133	28A.305.170	28A.21.120	28A.310.310
28A.04.134	28A.305.180	28A.21.130	28A.310.320
28A.04.135	28A.305.190	28A.21.135	28A.310.330
28A.04.140	28A.305.200	28A.21.136	28A.310.340
28A.04.145	28A.305.210	28A.21.137	28A.310.350
28A.04.155	28A.305.220	28A.21.138	28A.310.360
28A.04.165	28A.305.230	28A.21.140	28A.310.370
28A.04.167	Decodified	28A.21.160	28A.310.380
28A.04.170	Decodified	28A.21.170	28A.310.390
28A.04.172	Decodified	28A.21.195	28A.310.400
28A.04.174	Decodified	28A.21.200	28A.310.410
28A.04.176	28A.305.240	28A.21.210	28A.310.420
28A.04.178	28A.305.250	28A.21.220	28A.310.430
28A.04.180	28A.630.400	28A.21.255	28A.310.440
28A.05.005	28A.230.010	28A.21.300	28A.310.450
28A.05.010	28A.230.020	28A.21.310	28A.310.460
28A.05.015	28A.230.030	28A.21.350	28A.310.470
28A.05.030	28A.230.040	28A.21.355	28A.310.480
28A.05.040	28A.230.050	28A.21.360	28A.310.490
28A.05.050	28A.230.060	28A.21.900	28A.310.900
28A.05.055	28A.230.070	28A.24.055	28A.160.010
28A.05.060	28A.230.090	28A.24.065	28A.160.020
28A.05.062	28A.230.100	28A.24.100	28A.160.030
28A.05.064	28A.230.110	28A.24.110	28A.160.040
28A.05.070	28A.230.130	28A.24.111	28A.160.050
28A.08.005	28A.220.010	28A.24.112	28A.160.060
28A.08.010	28A.220.020	28A.24.120	28A.160.070
28A.08.020	28A.220.030	28A.24.170	28A.160.080
28A.08.070	28A.220.040	28A.24.172	28A.160.090
28A.08.080	28A.220.050	28A.24.175	28A.160.100

Table of Disposition of Former RCW Sections

Title 28A

Formerly	Presently	Formerly	Presently
28A.24.178	28A.160.110	28A.34A.030	28A.215.120
28A.24.180	28A.160.120	28A.34A.040	28A.215.130
28A.27.010	28A.225.010	28A.34A.050	28A.215.140
28A.27.020	28A.225.020	28A.34A.060	28A.215.150
28A.27.022	28A.225.030	28A.34A.070	28A.215.160
28A.27.030	28A.225.040	28A.34A.080	28A.215.170
28A.27.040	28A.225.050	28A.34A.090	28A.215.180
28A.27.070	28A.225.060	28A.34A.100	28A.215.190
28A.27.080	28A.225.070	28A.34A.110	28A.215.200
28A.27.090	28A.225.080	28A.34A.900	28A.215.904
28A.27.100	28A.225.090	28A.34A.904	28A.215.900
28A.27.102	28A.225.100	28A.34A.906	28A.215.906
28A.27.104	28A.225.110	28A.34A.908	28A.215.908
28A.27.110	28A.225.120	28A.40.010	28A.515.300
28A.27.120	28A.225.130	28A.40.020	28A.515.310
28A.27.130	28A.225.140	28A.40.100	28A.515.320
28A.27.140	28A.225.150	28A.41.040	28A.300.170
28A.27.310	28A.200.010	28A.41.050	28A.150.380
28A.27.320	28A.200.020	28A.41.053	28A.150.390
28A.29.010	28A.235.010	28A.41.055	28A.150.400
28A.29.020	28A.235.020	28A.41.110	28A.150.100
28A.29.030	28A.235.030	28A.41.112	28A.150.410
28A.29.040	28A.235.140	28A.41.130	28A.150.250
28A.30.010	28A.235.040	28A.41.140	28A.150.260
28A.30.020	28A.235.050	28A.41.143	28A.150.270
28A.30.030	28A.235.060	28A.41.145	28A.150.350
28A.30.040	28A.235.070	28A.41.150	28A.150.360
28A.30.050	28A.235.080	28A.41.155	28A.500.010
28A.30.060	28A.235.090	28A.41.160	28A.150.280
28A.30.070	28A.235.100	28A.41.162	28A.150.370
28A.30.080	28A.235.110	28A.41.170	28A.150.290
28A.31.005	28A.210.005	28A.41.172	28A.150.420
28A.31.010	28A.210.010	28A.41.175	28A.150.430
28A.31.020	28A.235.130	28A.41.180	28A.160.220
28A.31.030	28A.210.020	28A.41.505	28A.160.150
28A.31.040	28A.210.030	28A.41.510	28A.160.160
28A.31.050	28A.210.040	28A.41.515	28A.160.170
28A.31.060	28A.210.050	28A.41.520	28A.160.180
28A.31.100	28A.210.060	28A.41.525	28A.160.190
28A.31.102	28A.210.070	28A.41.540	28A.160.200
28A.31.104	28A.210.080	28A.44.045	28A.545.010
28A.31.106	28A.210.090	28A.44.095	28A.545.020
28A.31.110	28A.210.100	28A.44.150	28A.545.030
28A.31.112	28A.210.110	28A.44.160	28A.545.040
28A.31.114	28A.210.120	28A.44.170	28A.545.050
28A.31.115	28A.210.130	28A.44.180	28A.545.060
28A.31.116	28A.210.140	28A.44.190	28A.545.070
28A.31.117	28A.210.150	28A.44.200	28A.545.080
28A.31.118	28A.210.160	28A.44.210	28A.545.090
28A.31.120	28A.210.170	28A.44.220	28A.545.100
28A.31.130	28A.210.180	28A.44.230	28A.545.110
28A.31.132	28A.210.190	28A.46.010	28A.550.010
28A.31.134	28A.210.200	28A.47.050	28A.525.010
28A.31.136	28A.210.210	28A.47.060	28A.525.020
28A.31.138	28A.210.220	28A.47.073	28A.525.030
28A.31.139	28A.210.230	28A.47.075	28A.525.040
28A.31.140	28A.210.240	28A.47.080	28A.525.050
28A.31.142	28A.210.250	28A.47.090	28A.525.060
28A.31.150	28A.210.260	28A.47.100	28A.525.070
28A.31.155	28A.210.270	28A.47.105	28A.335.230
28A.31.160	28A.210.280	28A.47.120	28A.525.080
28A.31.165	28A.210.290	28A.47.775	28A.525.100
28A.31.170	28A.210.310	28A.47.776	28A.525.102
28A.34.010	28A.215.010	28A.47.777	28A.525.104
28A.34.020	28A.215.020	28A.47.778	28A.525.106
28A.34.040	28A.215.030	28A.47.779	28A.525.108
28A.34.050	28A.215.040	28A.47.780	28A.525.110
28A.34.100	28A.215.300	28A.47.781	28A.525.112
28A.34.110	28A.215.310	28A.47.782	28A.525.114
28A.34.120	28A.215.320	28A.47.783	28A.525.116
28A.34.130	28A.215.330	28A.47.784	28A.525.120
28A.34.150	28A.215.050	28A.47.785	28A.525.122
28A.34A.010	28A.215.100	28A.47.786	28A.525.124
28A.34A.020	28A.215.110	28A.47.787	28A.525.126

**Title 28A**

**Table of Disposition of Former RCW Sections**

<b>Formerly</b>	<b>Presently</b>	<b>Formerly</b>	<b>Presently</b>
28A.47.788	28A.525.128	28A.57.020	28A.315.020
28A.47.789	28A.525.130	28A.57.029	28A.315.030
28A.47.790	28A.525.132	28A.57.030	28A.315.040
28A.47.791	28A.525.134	28A.57.031	28A.315.050
28A.47.792	28A.525.140	28A.57.032	28A.315.060
28A.47.793	28A.525.142	28A.57.033	28A.315.070
28A.47.794	28A.525.144	28A.57.034	28A.315.080
28A.47.795	28A.525.146	28A.57.035	28A.315.090
28A.47.796	28A.525.148	28A.57.040	28A.315.100
28A.47.797	28A.525.150	28A.57.050	28A.315.110
28A.47.798	28A.525.152	28A.57.055	28A.315.120
28A.47.799	28A.525.154	28A.57.057	28A.315.130
28A.47.7991	28A.525.156	28A.57.060	28A.315.140
28A.47.7992	28A.525.158	28A.57.070	28A.315.150
28A.47.800	28A.525.160	28A.57.075	28A.315.160
28A.47.801	28A.525.162	28A.57.080	28A.315.170
28A.47.802	28A.525.164	28A.57.090	28A.315.180
28A.47.803	28A.525.166	28A.57.100	28A.315.190
28A.47.804	28A.525.168	28A.57.110	28A.315.200
28A.47.805	28A.525.170	28A.57.120	28A.315.210
28A.47.806	28A.525.172	28A.57.130	28A.315.220
28A.47.807	28A.525.174	28A.57.140	28A.315.230
28A.47.808	28A.525.176	28A.57.145	28A.315.240
28A.47.809	28A.525.178	28A.57.150	28A.315.250
28A.47.810	28A.525.180	28A.57.160	28A.315.260
28A.47.811	28A.525.182	28A.57.170	28A.315.270
28A.47.820	28A.525.190	28A.57.180	28A.315.280
28A.47.830	28A.525.200	28A.57.190	28A.315.290
28A.47.840	28A.525.210	28A.57.195	28A.315.300
28A.47.841	28A.525.212	28A.57.196	28A.315.310
28A.47.842	28A.525.214	28A.57.200	28A.315.320
28A.47.843	28A.525.216	28A.57.210	28A.315.330
28A.47.844	28A.525.218	28A.57.220	28A.315.340
28A.47.845	28A.525.220	28A.57.230	28A.315.350
28A.47.846	28A.525.222	28A.57.240	28A.315.360
28A.47B.010	28A.525.230	28A.57.245	28A.315.370
28A.47B.020	28A.525.240	28A.57.250	28A.315.380
28A.47B.030	28A.525.250	28A.57.255	28A.315.390
28A.47B.040	28A.525.260	28A.57.260	28A.315.400
28A.47B.050	28A.525.270	28A.57.270	28A.315.410
28A.47B.060	28A.525.280	28A.57.280	28A.315.420
28A.47B.070	28A.525.290	28A.57.290	28A.315.430
28A.47B.080	28A.525.300	28A.57.300	28A.315.440
28A.48.010	28A.510.250	28A.57.312	28A.315.450
28A.48.030	28A.510.260	28A.57.313	28A.315.460
28A.48.055	28A.195.060	28A.57.314	28A.315.470
28A.48.100	28A.510.270	28A.57.316	28A.315.480
28A.51.010	28A.530.010	28A.57.318	28A.315.490
28A.51.020	28A.530.020	28A.57.322	28A.315.500
28A.51.070	28A.530.030	28A.57.324	28A.315.510
28A.51.180	28A.530.040	28A.57.325	28A.315.520
28A.51.190	28A.530.050	28A.57.326	28A.315.530
28A.51.200	28A.530.060	28A.57.327	28A.315.540
28A.51.220	28A.530.070	28A.57.328	28A.315.550
28A.52.010	28A.535.010	28A.57.334	28A.315.560
28A.52.020	28A.535.020	28A.57.336	28A.315.570
28A.52.030	28A.535.030	28A.57.342	28A.315.580
28A.52.040	28A.535.040	28A.57.344	28A.315.590
28A.52.050	28A.535.050	28A.57.355	28A.315.600
28A.52.060	28A.535.060	28A.57.356	28A.315.610
28A.52.070	28A.535.070	28A.57.357	28A.315.620
28A.52.080	28A.535.080	28A.57.358	28A.315.630
28A.56.005	28A.540.010	28A.57.390	28A.315.640
28A.56.010	28A.540.020	28A.57.410	28A.315.650
28A.56.020	28A.540.030	28A.57.415	28A.315.660
28A.56.030	28A.540.040	28A.57.425	28A.315.670
28A.56.040	28A.540.050	28A.57.435	28A.315.680
28A.56.050	28A.540.060	28A.57.900	28A.315.900
28A.56.060	28A.540.070	28A.58.010	28A.320.010
28A.56.070	28A.540.080	28A.58.020	28A.320.020
28A.56.075	28A.540.090	28A.58.030	28A.320.030
28A.56.170	28A.540.100	28A.58.031	28A.335.020
28A.56.200	28A.540.110	28A.58.032	28A.335.030
28A.57.010	28A.315.010	28A.58.033	28A.335.040

Table of Disposition of Former RCW Sections

Title 28A

Formerly	Presently	Formerly	Presently
28A.58.034	28A.335.050	28A.58.370	28A.320.420
28A.58.035	28A.335.060	28A.58.380	28A.320.430
28A.58.036	28A.335.070	28A.58.390	28A.320.440
28A.58.037	28A.335.080	28A.58.410	28A.320.070
28A.58.040	28A.335.090	28A.58.420	28A.400.350
28A.58.0401	28A.335.100	28A.58.423	28A.400.360
28A.58.044	28A.335.110	28A.58.425	28A.400.370
28A.58.045	28A.335.120	28A.58.428	28A.160.130
28A.58.0461	28A.335.130	28A.58.430	28A.320.300
28A.58.047	28A.335.140	28A.58.435	28A.320.310
28A.58.048	28A.335.150	28A.58.440	28A.320.320
28A.58.050	28A.605.010	28A.58.441	28A.320.330
28A.58.053	28A.605.020	28A.58.445	28A.405.250
28A.58.055	28A.335.210	28A.58.450	28A.405.300
28A.58.070	28A.335.220	28A.58.455	28A.405.310
28A.58.075	28A.335.160	28A.58.460	28A.405.320
28A.58.080	28A.320.500	28A.58.470	28A.405.330
28A.58.081	28A.240.020	28A.58.480	28A.405.340
28A.58.082	28A.240.030	28A.58.490	28A.405.350
28A.58.085	28A.320.200	28A.58.500	28A.405.360
28A.58.087	28A.175.010	28A.58.510	28A.405.370
28A.58.090	28A.320.210	28A.58.515	28A.405.380
28A.58.094	28A.320.220	28A.58.520	28A.320.400
28A.58.0951	28A.400.200	28A.58.521	28A.320.410
28A.58.096	28A.400.210	28A.58.530	28A.320.110
28A.58.098	28A.400.220	28A.58.535	28A.230.180
28A.58.099	28A.400.300	28A.58.550	28A.335.200
28A.58.0991	28A.400.380	28A.58.560	28A.400.250
28A.58.1001	28A.400.320	28A.58.565	28A.400.260
28A.58.1002	28A.400.330	28A.58.580	28A.405.070
28A.58.1003	28A.405.470	28A.58.600	28A.315.690
28A.58.101	28A.600.010	28A.58.601	28A.315.700
28A.58.1011	28A.600.020	28A.58.602	28A.315.710
28A.58.102	28A.335.010	28A.58.603	28A.315.720
28A.58.103	28A.320.230	28A.58.610	28A.320.090
28A.58.104	28A.320.240	28A.58.620	28A.320.100
28A.58.105	28A.320.510	28A.58.630	28A.320.060
28A.58.107	28A.320.080	28A.58.640	28A.615.010
28A.58.108	28A.230.120	28A.58.642	28A.615.020
28A.58.110	28A.320.040	28A.58.644	28A.615.030
28A.58.113	28A.325.010	28A.58.646	28A.615.040
28A.58.115	28A.325.020	28A.58.648	28A.615.050
28A.58.120	28A.325.030	28A.58.720	28A.623.010
28A.58.125	28A.600.200	28A.58.722	28A.623.020
28A.58.131	28A.335.170	28A.58.724	28A.623.030
28A.58.133	28A.160.140	28A.58.730	28A.400.230
28A.58.135	28A.335.190	28A.58.740	28A.400.240
28A.58.136	28A.235.120	28A.58.750	28A.150.200
28A.58.137	28A.400.010	28A.58.752	28A.150.210
28A.58.140	28A.400.020	28A.58.754	28A.150.220
28A.58.150	28A.400.030	28A.58.758	28A.150.230
28A.58.160	28A.400.100	28A.58.760	28A.150.240
28A.58.170	28A.400.150	28A.58.765	28A.190.010
28A.58.190	28A.225.160	28A.58.770	28A.190.020
28A.58.195	28A.600.030	28A.58.772	28A.190.030
28A.58.200	28A.600.040	28A.58.774	28A.190.040
28A.58.201	28A.400.110	28A.58.776	28A.190.050
28A.58.210	28A.225.170	28A.58.778	28A.190.060
28A.58.215	28A.225.180	28A.58.800	28A.180.010
28A.58.217	28A.185.040	28A.58.801	28A.180.020
28A.58.220	28A.225.190	28A.58.802	28A.180.030
28A.58.225	28A.225.200	28A.58.804	28A.180.040
28A.58.230	28A.225.210	28A.58.806	28A.180.050
28A.58.235	28A.225.215	28A.58.808	28A.180.060
28A.58.240	28A.225.220	28A.58.809	28A.180.070
28A.58.242	28A.225.230	28A.58.810	28A.180.080
28A.58.243	28A.225.240	28A.58.820	28A.600.100
28A.58.245	28A.225.250	28A.58.822	28A.600.110
28A.58.246	28A.620.010	28A.58.824	28A.600.120
28A.58.247	28A.620.020	28A.58.826	28A.600.130
28A.58.250	28A.225.260	28A.58.828	28A.600.140
28A.58.255	28A.230.080	28A.58.830	28A.600.150
28A.58.275	28A.405.460	28A.58.842	28A.625.150
28A.58.310	28A.320.050	28A.59.030	28A.330.010

**Title 28A**

**Table of Disposition of Former RCW Sections**

Formerly	Presently	Formerly	Presently
28A.59.040	28A.330.020	28A.67.215	28A.405.130
28A.59.050	28A.330.030	28A.67.220	28A.405.140
28A.59.060	28A.330.040	28A.67.225	28A.405.150
28A.59.070	28A.330.050	28A.67.230	28A.405.160
28A.59.080	28A.330.060	28A.67.240	28A.405.450
28A.59.100	28A.330.070	28A.67.250	28A.305.260
28A.59.110	28A.330.080	28A.67.260	28A.305.270
28A.59.150	28A.330.090	28A.67.270	28A.300.180
28A.59.180	28A.330.100	28A.67.300	28A.600.210
28A.59.185	28A.330.110	28A.67.310	28A.600.220
28A.60.010	28A.330.200	28A.67.320	28A.600.230
28A.60.070	28A.330.210	28A.67.330	28A.600.240
28A.60.181	28A.335.240	28A.67.900	28A.405.900
28A.60.190	28A.335.250	28A.70.005	28A.410.010
28A.60.200	28A.335.260	28A.70.010	28A.410.030
28A.60.210	28A.335.270	28A.70.040	28A.410.040
28A.60.220	28A.335.280	28A.70.042	28A.410.050
28A.60.310	28A.330.220	28A.70.110	28A.410.060
28A.60.320	28A.210.300	28A.70.130	28A.410.070
28A.60.328	28A.330.230	28A.70.160	28A.410.090
28A.60.350	28A.335.290	28A.70.170	28A.410.100
28A.60.360	28A.330.240	28A.70.180	28A.410.110
28A.61.010	28A.345.010	28A.70.395	28A.410.140
28A.61.020	28A.345.020	28A.70.400	28A.410.150
28A.61.030	28A.345.030	28A.70.402	28A.410.160
28A.61.040	28A.345.040	28A.70.404	28A.410.170
28A.61.050	28A.345.050	28A.70.406	28A.410.180
28A.61.070	28A.345.060	28A.70.408	28A.410.190
28A.61.900	28A.345.900 (Repealed)	28A.70.900	28A.410.900
28A.61.910	28A.345.902	28A.71.100	28A.415.010
28A.65.400	28A.505.010	28A.71.110	28A.415.020
28A.65.405	28A.505.020	28A.71.200	28A.415.030
28A.65.410	28A.505.030	28A.71.210	28A.415.040
28A.65.415	28A.505.040	28A.71.220	28A.415.050
28A.65.420	28A.505.050	28A.85.010	28A.640.010
28A.65.425	28A.505.060	28A.85.020	28A.640.020
28A.65.430	28A.505.070	28A.85.030	28A.640.030
28A.65.435	28A.505.080	28A.85.040	28A.640.040
28A.65.440	28A.505.090	28A.85.050	28A.640.050
28A.65.445	28A.505.100	28A.85.900	28A.640.900
28A.65.450	28A.505.110	28A.87.010	28A.635.010
28A.65.455	28A.505.120	28A.87.020	28A.410.130
28A.65.460	28A.505.130	28A.87.055	28A.635.020
28A.65.465	28A.505.140	28A.87.060	28A.635.030
28A.65.470	28A.505.150	28A.87.070	28A.635.040
28A.65.475	28A.505.160	28A.87.090	28A.635.050
28A.65.480	28A.505.170	28A.87.120	28A.635.060
28A.65.485	28A.505.180	28A.87.130	28A.635.070
28A.65.490	28A.505.190	28A.87.135	28A.635.080
28A.66.010	28A.350.010	28A.87.230	28A.635.090
28A.66.020	28A.350.020	28A.87.231	28A.635.100
28A.66.030	28A.350.030	28A.87.232	28A.635.110
28A.66.040	28A.350.040	28A.87.233	28A.635.120
28A.66.050	28A.350.050	28A.88.010	28A.645.010
28A.66.070	28A.350.060	28A.88.013	28A.645.020
28A.66.080	28A.350.070	28A.88.015	28A.645.030
28A.67.010	28A.405.010	28A.88.090	28A.645.040
28A.67.020	28A.405.020	28A.92.010	28A.695.010
28A.67.030	28A.405.040	28A.92.020	28A.695.020
28A.67.035	28A.405.050	28A.92.030	28A.695.030
28A.67.060	28A.405.060	28A.92.040	28A.695.040
28A.67.065	28A.405.100	28A.92.050	28A.695.050
28A.67.066	28A.405.200	28A.92.060	28A.695.060
28A.67.070	28A.405.210	28A.92.070	28A.695.070
28A.67.072	28A.405.220	28A.92.080	28A.695.080
28A.67.073	28A.405.230	28A.93.010	28A.690.010
28A.67.074	28A.405.240	28A.93.020	28A.690.020
28A.67.095	28A.405.400	28A.93.030	28A.690.030
28A.67.096	28A.405.410	28A.97.010	28A.205.010
28A.67.110	28A.405.030	28A.97.020	28A.205.020
28A.67.115	28A.625.300	28A.97.030	28A.205.030
28A.67.120	28A.630.800	28A.97.040	28A.205.040
28A.67.205	28A.405.110	28A.97.050	28A.205.050
28A.67.210	28A.405.120	28A.97.110	28A.205.060

## Formerly

## Presently

28A.97.120	28A.205.070
28A.97.125	28A.205.080
28A.97.130	28A.205.090
28A.100.017	28A.630.010
28A.100.018	28A.630.020
28A.100.019	28A.630.030
28A.100.020	28A.630.040
28A.100.025	28A.630.090
28A.100.026	28A.630.091
28A.100.030	28A.630.100
28A.100.032	28A.630.110
28A.100.034	28A.630.120
28A.100.036	28A.630.130
28A.100.038	28A.630.140
28A.100.040	28A.630.150
28A.100.042	28A.630.160
28A.100.044	28A.630.170
28A.100.048	28A.630.180
28A.100.050	28A.630.190
28A.100.052	28A.630.200
28A.100.054	28A.630.210
28A.100.056	28A.630.220
28A.100.058	28A.630.230
28A.100.068	28A.630.290
28A.100.080	28A.340.010
28A.100.082	28A.340.020
28A.100.084	28A.340.030
28A.100.086	28A.340.040
28A.100.088	28A.340.050
28A.100.090	28A.340.060
28A.100.092	28A.340.070
28A.120.010	28A.165.010
28A.120.012	28A.165.020
28A.120.014	28A.165.030
28A.120.016	28A.165.040
28A.120.018	28A.165.050
28A.120.020	28A.165.060
28A.120.022	28A.165.070
28A.120.024	28A.165.080
28A.120.026	28A.165.090
28A.120.030	28A.170.010
28A.120.032	28A.170.020
28A.120.034	28A.170.030
28A.120.036	28A.170.040
28A.120.038	28A.170.050
28A.120.040	28A.170.060
28A.120.050	28A.170.070
28A.120.060	28A.175.020
28A.120.062	28A.175.030
28A.120.064	28A.175.040
28A.120.068	28A.175.050
28A.120.070	28A.175.060
28A.120.072	28A.175.070
28A.120.080	28A.170.075
28A.120.082	28A.170.080
28A.120.084	28A.170.090
28A.120.086	28A.170.100
28A.120.090	28A.175.080
28A.120.092	28A.175.090
28A.120.094	28A.630.050
28A.120.096	28A.630.060
28A.120.800	28A.630.810
28A.125.010	28A.630.300
28A.125.020	28A.630.310
28A.125.030	28A.630.320
28A.125.040	28A.630.330
28A.125.100	28A.630.340
28A.125.900	28A.630.390
28A.130.010	28A.610.010
28A.130.012	28A.610.020
28A.130.014	28A.610.030
28A.130.016	28A.610.040
28A.130.018	28A.610.050
28A.130.020	28A.610.060

## Chapter 28A.01

## DEFINITIONS

**28A.01.010 School day.** [1971 ex.s. c 161 § 1; 1969 ex.s. c 223 § 28A.01.010. Prior: (i) 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part; 1897 c 118 § 66, part; 1890 p 372 § 46. Formerly RCW 28.01.010, part. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1, part; 1909 c 97 p 371 subchapter 19, part; 1897 c 118 § 181, part. Formerly RCW 28.35.030, part.] Recodified as RCW 28A.150.030 pursuant to 1990 c 33 § 4.

**28A.01.020 School year—Beginning—End.** [1982 c 158 § 5; 1977 ex.s. c 286 § 1; 1975–76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28.01.020.] Recodified as RCW 28A.150.040 pursuant to 1990 c 33 § 4.

**28A.01.025 School year—For certification or qualification purposes.** [1969 ex.s. c 223 § 28A.01.025. Prior: 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part. Formerly RCW 28.01.010, part.] Recodified as RCW 28A.410.080 pursuant to 1990 c 33 § 4.

**28A.01.026 School year—Fiscal year.** Cross-reference section, decodified June 1990.

**28A.01.040 High school district.** Cross-reference section, decodified June 1990.

**28A.01.045 Nonhigh school district.** Cross-reference section, decodified June 1990.

**28A.01.055 Public schools.** [1969 ex.s. c 223 § 28A.01.055.] Recodified as RCW 28A.150.010 pursuant to 1990 c 33 § 4.

**28A.01.060 Common schools.** [1969 ex.s. c 223 § 28A.01.060. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28.58.190, part, 28.01.060.] Recodified as RCW 28A.150.020 pursuant to 1990 c 33 § 4.

**28A.01.100 Superintendent of the school district.** [1969 ex.s. c 223 § 28A.01.100.] Recodified as RCW 28A.150.080 pursuant to 1990 c 33 § 4.

**28A.01.110 Commonly-used schoolhouse doors.** [1969 ex.s. c 223 § 28A.01.110.] Recodified as RCW 28A.150.090 pursuant to 1990 c 33 § 4.

**28A.01.120 Associated student body.** Cross-reference section, decodified June 1990.

**28A.01.130 Certificated employee.** [1977 ex.s. c 359 § 17; 1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1.] Recodified as RCW 28A.150.060 pursuant to 1990 c 33 § 4.

**28A.01.160 Definitions relating to division for handicapped children.** Cross-reference section, decodified June 1990.

**28A.01.180 Elderly persons defined for nonprofit meal program purposes.** Cross-reference section, decodified June 1990.

## Chapter 28A.02

## GENERAL PROVISIONS

**28A.02.010 General public school system—Maintained.** [1969 ex.s. c 223 § 28A.02.010. Prior: 1909 c 97 p 230 § 1; RRS § 4518; prior: 1897 c 118 § 1; 1890 p 348 § 1. Formerly RCW 28.02.010.] Recodified as RCW 28A.150.295 pursuant to 1990 c 33 § 4.

**28A.02.020 General public school system—Administration.** [1969 ex.s. c 223 § 28A.02.020. Prior: 1909 c 97 p 230 § 2; RRS § 4519; prior: 1897 c 118 § 19; 1890 p 348 § 2; Code 1881 §§ 3154, 3155; 1861 p 55 § 1. Formerly RCW 28.02.020.] Recodified as RCW 28A.150.070 pursuant to 1990 c 33 § 4.

**28A.02.030 United States flag—Procurement, display, exercises—National anthem.** [1981 c 130 § 1; 1969 ex.s. c 223 § 28A.02.030. Prior: (i) 1961 c 238 § 1; 1955 c 8 § 1; 1919 c 90 § 4; 1915 c 71 § 1; 1909 c 97 p 286 § 3; 1897 c 118 § 180; RRS § 4777. Formerly RCW 28.02.030. (ii) 1955 c 8 § 2; 1919 c 90 § 5; RRS § 4778. Formerly RCW 28.87.180.] Recodified as RCW 28A.230.140 pursuant to 1990 c 33 § 4.

**28A.02.040 Schools to be free from sectarian influence.** Cross-reference section, decodified June 1990.

**28A.02.050 Law against discrimination applicable to districts' employment practices.** [1969 ex.s. c 223 § 28A.02.050. Prior: (i) 1937 c 52 § 1; RRS § 4693-1. Formerly RCW 28.02.050. (ii) 1937 c 52 § 2; RRS § 4693-2. Formerly RCW 28.02.051.] Recodified as RCW 28A.400.310 pursuant to 1990 c 33 § 4.

**28A.02.061 School holidays.** [1989 c 233 § 11; 1985 c 189 § 2; 1984 c 92 § 1; 1975-'76 2nd ex.s. c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060; prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.060, 28.02.060.] Recodified as RCW 28A.150.050 pursuant to 1990 c 33 § 4.

**28A.02.070 Educational activities in observance of Veterans' Day.** [1985 c 60 § 1; 1977 ex.s. c 120 § 2; 1975 1st ex.s. c 275 § 45; 1970 ex.s. c 15 § 12. Prior: 1969 ex.s. c 283 § 24; 1969 ex.s. c 176 § 101; 1969 ex.s. c 223 § 28A.02.070; prior: 1955 c 20 § 3; prior: (i) 1939 c 21 § 1; 1921 c 56 § 1; RRS § 4899. (ii) 1921 c 56 § 2; RRS § 4900. (iii) 1921 c 56 § 3; RRS § 4901. Formerly RCW 28.02.070.] Recodified as RCW 28A.230.160 pursuant to 1990 c 33 § 4.

**28A.02.080 Study of Constitutions compulsory—Rules to implement.** [1985 c 341 § 1; 1969 ex.s. c 223 § 28A.02.080. Prior: (i) 1925 ex.s. c 134 § 1; RRS § 4898-1. (ii) 1925 ex.s. c 134 § 2; RRS § 4898-2. Formerly RCW 28.02.080 and 28.02.081.] Recodified as RCW 28A.230.170 pursuant to 1990 c 33 § 4.

**28A.02.090 Temperance and Good Citizenship Day—Aids in programming.** [1969 ex.s. c 223 § 28A.02.090. Prior: (i) 1923 c 76 § 1; RRS § 4901-1. (ii) 1923 c 76 § 2; RRS § 4901-2. Formerly RCW 28.02.090 and 28.02.095.] Recodified as RCW 28A.230.150 pursuant to 1990 c 33 § 4.

**28A.02.100 Receipt of federal funds for school purposes—Superintendent of public instruction to administer.** [1969 ex.s. c 223 § 28A.02.100. Prior: 1943 c 220 § 4; Rem. Supp. 1943 § 5109-4. Formerly RCW 28.02.100.] Recodified as RCW 28A.300.070 pursuant to 1990 c 33 § 4.

**28A.02.110 Surplus texts and other educational aids, notice of availability—Student priority as to texts.** [1981 c 306 § 1; 1977 ex.s. c 303 § 1.] Recodified as RCW 28A.335.180 pursuant to 1990 c 33 § 4.

**28A.02.120 School patrol, appointment, insignia and authority.** Cross-reference section, decodified June 1990.

**28A.02.130 Uniform minor student capacity to borrow act.** Cross-reference section, decodified June 1990.

**28A.02.201 Private schools—Extension programs for parents to teach children in their custody—Scope of state control—Generally.** [1985 c 441 § 4; 1985 c 16 § 1; 1983 c 56 § 1; 1977 ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2.] Recodified as RCW 28A.195.010 pursuant to 1990 c 33 § 4.

**28A.02.220 Private schools—Rights recognized.** [1974 ex.s. c 92 § 3; 1971 ex.s. c 215 § 5.] Recodified as RCW 28A.195.020 pursuant to 1990 c 33 § 4.

**28A.02.230 Private schools—Actions appealable under Administrative Procedure Act.** [1974 ex.s. c 92 § 4; 1971 ex.s. c 215 § 6.] Recodified as RCW 28A.195.030 pursuant to 1990 c 33 § 4.

**28A.02.240 Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited.** [1983 c 3 § 29; 1974 ex.s. c 92 § 5; 1971 ex.s. c 215 § 7.] Recodified as RCW 28A.195.040 pursuant to 1990 c 33 § 4.

**28A.02.250 Private school advisory committee.** [1984 c 40 § 1; 1974 ex.s. c 92 § 6.] Recodified as RCW 28A.195.050 pursuant to 1990 c 33 § 4.

**28A.02.260 Professional certification not to be required of superintendents, deputy or assistant superintendents.** [1975 1st ex.s. c 254 § 3.] Recodified as RCW 28A.410.120 pursuant to 1990 c 33 § 4.

**28A.02.300 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when.** [1985 c 311 § 1; 1982 c 126 § 1.] Recodified as RCW 28A.520.010 pursuant to 1990 c 33 § 4.

**28A.02.310 Distribution of forest reserve funds—Revolving fund created—Use—Apportionments from—As affects basic education allocation.** [1985 c 311 § 2; 1982 c 126 § 2.] Recodified as RCW 28A.520.020 pursuant to 1990 c 33 § 4.

**28A.02.320 Employee suggestion program—Board of directors of a school district may establish.** [1986 c 143 § 1.] Recodified as RCW 28A.625.100 pursuant to 1990 c 33 § 4.

**28A.02.325 Employee suggestion program—Awards.** [1987 1st ex.s. c 2 § 207; 1986 c 143 § 2.] Recodified as RCW 28A.625.110 pursuant to 1990 c 33 § 4.

### Chapter 28A.03

#### SUPERINTENDENT OF PUBLIC INSTRUCTION

**28A.03.010 Election—Term of office.** [1969 ex.s. c 223 § 28A.03.010. Prior: 1909 c 97 p 231 § 1; RRS § 4521; prior: 1897 c 118 § 20; 1891 c 127 § 1; 1890 p 348 § 3; Code 1881 § 3154; 1873 p 419 § 1; 1861 p 55 § 1. Formerly RCW 28.03.010; 43.11.010.] Recodified as RCW 28A.300.010 pursuant to 1990 c 33 § 4.

**28A.03.013 Election—Office as nonpartisan.** Cross-reference section, decodified June 1990.

**28A.03.014 Election—No primary if no more than two candidates, procedure.** Cross-reference section, decodified June 1990.

**28A.03.015 Election—Returns of elections, canvass, etc., under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.016 Term of office—Under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.017 Executive office under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.018 Qualifications under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.020 Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel.** [1969 ex.s. c 223 § 28A.03.020. Prior: 1967 c 158 § 3; 1909 c 97 p 234 § 4; RRS § 4524; prior: 1905 c 56 § 1; 1903 c 104 § 10; 1897 c 118 § 23; 1890 p 351 § 5. Formerly RCW 28.03.020; 43.11.020.] Recodified as RCW 28A.300.020 pursuant to 1990 c 33 § 4.

**28A.03.025 Administrative officers—Division for handicapped children, supervisor.** Cross-reference section, decodified June 1990.

**28A.03.028 Assistance of educational service district boards and superintendents—Scope.** [1975 1st ex.s. c 275 § 46; 1971 ex.s. c 282 § 29.] Recodified as RCW 28A.300.030 pursuant to 1990 c 33 § 4.

**28A.03.030 Powers and duties generally.** [1982 c 160 § 2; 1981 c 249 § 1; 1977 c 75 § 17; 1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348-351 §§ 3, 4; Code 1881 §§ 3155-3160; 1873 p 419 §§ 2-6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28.03.030; 43.11.030.] Recodified as RCW 28A.300.040 pursuant to 1990 c 33 § 4.

**28A.03.0301 Delegation to ESD of SPI program, project or service—Contract.** Cross-reference section, decodified June 1990.

**28A.03.031 Duties and salary under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.032 Salary.** Cross-reference section, decodified June 1990.

**28A.03.033 Compensation limitation under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.035 Oath of office.** Cross-reference section, decodified June 1990.

**28A.03.036 Records to be kept at seat of government under Constitution.** Cross-reference section, decodified June 1990.

**28A.03.037 Offenses and penalties relating to superintendent and employees.** Cross-reference section, decodified June 1990.

**28A.03.045** Employees, seniority, leave and other employee benefits. Cross-reference section, decodified June 1990.

**28A.03.061** Child center for research and training in mental retardation, superintendent as member of advisory committee. Cross-reference section, decodified June 1990.

**28A.03.065** County committees on school district organization, superintendent to furnish personnel and supplies for, reimburse expenses. Cross-reference section, decodified June 1990.

**28A.03.067** Current state school fund, estimate of apportionment demands, annual apportionments, by superintendent. Cross-reference section, decodified June 1990.

**28A.03.070** Traffic safety education courses, superintendent's powers and duties relating to. Cross-reference section, decodified June 1990.

**28A.03.071** Driving instructor's examination committee, superintendent to have representative on. Cross-reference section, decodified June 1990.

**28A.03.072** Federal funds, receipt and administration of by superintendent. Cross-reference section, decodified June 1990.

**28A.03.074** Handicapped children, division for, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.077** Natural resources, board of, superintendent as member. Cross-reference section, decodified June 1990.

**28A.03.079** School buses, design, marking, mode of operation, superintendent to adopt and enforce regulations for. Cross-reference section, decodified June 1990.

**28A.03.080** School district hot lunch program, superintendent's duties under. Cross-reference section, decodified June 1990.

**28A.03.082** State library commission, superintendent as ex officio chairman of. Cross-reference section, decodified June 1990.

**28A.03.084** Programs for highly capable students, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.086** State traffic safety commission, superintendent as member of. Cross-reference section, decodified June 1990.

**28A.03.087** Joint school district educational facilities, services or programs, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.088** Educational service districts, allocation of state funds to, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.089** Educational service districts system, superintendent's duties generally relating to. Cross-reference section, decodified June 1990.

**28A.03.090** Voluntary, tuition free attendance programs among school districts, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.091** State board of education, superintendent as ex officio president and chief executive officer of. Cross-reference section, decodified June 1990.

**28A.03.093** High-technology education and training—Superintendent member of high-technology coordinating board. Cross-reference section, decodified June 1990.

**28A.03.094** Transitional bilingual instruction program, superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.096** Self-study process by school districts—Superintendent's duties—Reports. Cross-reference section, decodified June 1990.

**28A.03.097** Award of grants by superintendent for school improvement and research projects by educational employees. Cross-reference section, decodified June 1990.

**28A.03.098** Immunization program, superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.100** Additional powers and duties—Vocational education, relating to. Cross-reference section, decodified June 1990.

**28A.03.102** Missing children, superintendent's duties relating to. Cross-reference section, decodified June 1990.

**28A.03.106** Educational clinics, superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.107** Evaluation of certificated employees, superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.108** Dropout statistics—Reporting requirements—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.109** Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.111** Learning assistance program, duties. Cross-reference section, decodified June 1990.

**28A.03.112** International education program, superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.113** Project even start—Adult literacy—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.114** Drug abuse awareness program—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.115** Dropout prevention programs—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.117** Student teaching pilot program—Superintendent's duties. Cross-reference section, decodified June 1990.

**28A.03.200** State otologist to cooperate with. Cross-reference section, decodified June 1990.

**28A.03.210** Reports of attendance at private schools to be sent to. Cross-reference section, decodified June 1990.

**28A.03.230** Handicapped children, commitment of, notice to. Cross-reference section, decodified June 1990.

**28A.03.300** Learning/language disabilities, screening for—Purpose. [1975 1st ex.s. c 78 § 1.] Recodified as RCW 28A.155.110 pursuant to 1990 c 33 § 4.

**28A.03.310** Learning/language disabilities, screening for—Program. [1985 c 341 § 2; 1975 1st ex.s. c 78 § 2.] Recodified as RCW 28A.155.120 pursuant to 1990 c 33 § 4.

**28A.03.320** Learning/language disabilities, screening for—Short title. [1975 1st ex.s. c 78 § 3.] Recodified as RCW 28A.155.130 pursuant to 1990 c 33 § 4.

**28A.03.350** Studies and adoption of classifications for school district budgets—Publication. [1975-'76 2nd ex.s. c 118 § 23; 1975 1st ex.s. c 5 § 1.] Recodified as RCW 28A.300.060 pursuant to 1990 c 33 § 4.

**28A.03.360** Assessments—Achievement tests—Scope—Purpose—Procedure. [1985 c 403 § 1; 1984 c 278 § 8; 1975-'76 2nd ex.s. c 98 § 1.] Recodified as RCW 28A.230.190 pursuant to 1990 c 33 § 4.

**28A.03.365** Assessment tests for eighth through eleventh grade students—School districts may prepare. [1984 c 278 § 10.] Recodified as RCW 28A.230.200 pursuant to 1990 c 33 § 4.

**28A.03.367** Curriculum-based assessment procedures for programs for children with handicapping conditions—Study—Rules. [1987 c 398 § 1.] Recodified as RCW 28A.155.140 pursuant to 1990 c 33 § 4.

**28A.03.370** Washington life skills test—Development and review—Use by school districts. [1984 c 278 § 11.] Recodified as RCW 28A.230.210 pursuant to 1990 c 33 § 4.

**28A.03.375** Assistance to state board for activities involving professional educator excellence. [1987 c 525 § 227.] Recodified as RCW 28A.300.050 pursuant to 1990 c 33 § 4.

**28A.03.415** Vocational agriculture education—Intent. [1983 1st ex.s. c 34 § 1.] Recodified as RCW 28A.300.080 pursuant to 1990 c 33 § 4.

**28A.03.417 Vocational agriculture education—Service area established—Duties.** [1983 1st ex.s. c 34 § 2.] Recodified as RCW 28A.300.090 pursuant to 1990 c 33 § 4.

**28A.03.419 Vocational agriculture education—Superintendent to adopt rules.** [1983 1st ex.s. c 34 § 3.] Recodified as RCW 28A.300.100 pursuant to 1990 c 33 § 4.

**28A.03.423 Pilot projects in school-based management—Superintendent's duties.** [1985 c 422 § 2.] Recodified as RCW 28A.240.010 pursuant to 1990 c 33 § 4.

**28A.03.425 Model curriculum programs or curriculum guidelines—Development—Review.** [1987 1st ex.s. c 2 § 208; 1987 c 197 § 1; 1984 c 278 § 5.] Recodified as RCW 28A.300.110 pursuant to 1990 c 33 § 4.

**28A.03.430 Mathematics, engineering, and science achievement program—Legislative findings and intent.** [1989 c 66 § 1; 1984 c 265 § 1.] Recodified as RCW 28A.625.200 pursuant to 1990 c 33 § 4.

**28A.03.432 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals.** [1989 c 66 § 2; 1984 c 265 § 2.] Recodified as RCW 28A.625.210 pursuant to 1990 c 33 § 4.

**28A.03.434 Mathematics, engineering, and science achievement program—Coordinator—Staff.** [1984 c 265 § 3.] Recodified as RCW 28A.625.220 pursuant to 1990 c 33 § 4.

**28A.03.436 Mathematics, engineering, and science achievement program—Coordinator to develop selection standards.** [1984 c 265 § 4.] Recodified as RCW 28A.625.230 pursuant to 1990 c 33 § 4.

**28A.03.438 Mathematics, engineering, and science achievement program—Local program centers.** [1984 c 265 § 5.] Recodified as RCW 28A.625.240 pursuant to 1990 c 33 § 4.

**28A.03.440 State honors awards program established—Purpose.** [1985 c 62 § 1.] Recodified as RCW 28A.600.050 pursuant to 1990 c 33 § 4.

**28A.03.442 State honors awards program—Areas included.** [1985 c 62 § 2.] Recodified as RCW 28A.600.060 pursuant to 1990 c 33 § 4.

**28A.03.444 State honors awards program—Rules.** [1985 c 62 § 3.] Recodified as RCW 28A.600.070 pursuant to 1990 c 33 § 4.

**28A.03.446 State honors awards program—Materials—Recognition by business and industry encouraged.** [1985 c 62 § 4.] Recodified as RCW 28A.600.080 pursuant to 1990 c 33 § 4.

**28A.03.500 Administrative hearing—Contract to conduct authorized—Final decision.** [1985 c 225 § 1.] Recodified as RCW 28A.300.120 pursuant to 1990 c 33 § 4.

**28A.03.510 Educational information—Superintendent's duties.** [1986 c 180 § 1.] Recodified as RCW 28A.300.130 pursuant to 1990 c 33 § 4.

**28A.03.511 State clearinghouse for educational information revolving fund.** [1987 c 119 § 1.] Recodified as RCW 28A.300.140 pursuant to 1990 c 33 § 4.

**28A.03.512 Information on child abuse and neglect prevention curriculum—Superintendent's duties.** [1987 c 489 § 2.] Recodified as RCW 28A.300.150 pursuant to 1990 c 33 § 4.

**28A.03.514 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.** [1987 c 489 § 3.] Recodified as RCW 28A.300.160 pursuant to 1990 c 33 § 4.

**28A.03.520 Award for excellence in education program—Short title.** [1986 c 147 § 1.] Recodified as RCW 28A.625.010 pursuant to 1990 c 33 § 4.

**28A.03.523 Award for excellence in education program—Recipients—Awards.** [1989 c 75 § 1; 1988 c 251 § 1; 1987 1st ex.s. c 2 § 209; 1986 c 147 § 2.] Recodified as RCW 28A.625.020 pursuant to 1990 c 33 § 4.

**28A.03.526 Award for excellence in education program—Christa McAuliffe award for teachers.** [1986 c 147 § 3.] Recodified as RCW 28A.625.030 pursuant to 1990 c 33 § 4.

**28A.03.529 Award for excellence in education program—Awards for school district superintendent and school board.** [1986 c 147 § 4.] Recodified as RCW 28A.625.040 pursuant to 1990 c 33 § 4.

**28A.03.532 Award for excellence in education program—Rules.** [1988 c 251 § 2; 1986 c 147 § 5.] Recodified as RCW 28A.625.050 pursuant to 1990 c 33 § 4.

**28A.03.535 Award for excellence in education program—Grant in lieu of waiver of tuition and fees—Principals and teachers or administrators may apply.** [1988 c 251 § 3; 1986 c 147 § 7.] Recodified as RCW 28A.625.060 pursuant to 1990 c 33 § 4.

**28A.03.538 Award for excellence in education program—Educational grant for school district board of directors and school district superintendent.** [1986 c 147 § 8.] Recodified as RCW 28A.625.070 pursuant to 1990 c 33 § 4.

**28A.03.550 Six-plus-sixty volunteer program—Grants—Advisory committee.** [1989 c 310 § 1.] Recodified as RCW 28A.615.060 pursuant to 1990 c 33 § 4.

#### Chapter 28A.04

#### STATE BOARD OF EDUCATION

**28A.04.010 Composition of board.** [1988 c 255 § 1; 1980 c 179 § 1; 1969 ex.s. c 223 § 28A.04.010. Prior: 1955 c 218 § 1; 1947 c 258 § 1; 1925 ex.s. c 65 § 1; 1909 c 97 p 234 § 1; RRS § 4525; prior: 1907 c 240 § 2; 1901 c 177 § 6; 1897 c 118 § 24; 1890 p 352 § 6; Code 1881 § 3163. Formerly RCW 28.04.010; 43.63.010.] Recodified as RCW 28A.305.010 pursuant to 1990 c 33 § 4.

**28A.04.020 Call and notice of elections.** [1988 c 255 § 2; 1981 c 38 § 1; 1969 ex.s. c 223 § 28A.04.020. Prior: 1955 c 218 § 2; 1947 c 258 § 2; Rem. Supp. 1947 § 4525-1. Formerly RCW 28.04.020; 43.63.020.] Recodified as RCW 28A.305.020 pursuant to 1990 c 33 § 4.

**28A.04.030 Elections in new congressional districts—Call and conduct of—Member terms.** [1982 1st ex.s. c 7 § 1; 1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28.04.030; 43.63.021.] Recodified as RCW 28A.305.030 pursuant to 1990 c 33 § 4.

**28A.04.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office.** [1982 1st ex.s. c 7 § 2; 1980 c 179 § 4; 1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28.04.040; 43.63.023.] Recodified as RCW 28A.305.040 pursuant to 1990 c 33 § 4.

**28A.04.050 Qualifications of voters—Ballots—Voting instructions—Candidates' biographical data.** [1988 c 255 § 3; 1981 c 38 § 2; 1969 ex.s. c 223 § 28A.04.050. Prior: 1955 c 218 § 6. Formerly RCW 28.04.050; 43.63.025.] Recodified as RCW 28A.305.050 pursuant to 1990 c 33 § 4.

**28A.04.060 Election procedure—Certificate.** [1981 c 38 § 3; 1980 c 179 § 5; 1975 c 19 § 2; 1969 ex.s. c 283 § 25; 1969 ex.s. c 223 § 28A.04.060. Prior: 1967 c 158 § 1; 1955 c 218 § 4; 1947 c 258 § 3; Rem. Supp. 1947 § 4525-2. Formerly RCW 28.04.060; 43.63.030.] Recodified as RCW 28A.305.060 pursuant to 1990 c 33 § 4.

**28A.04.065 Action to contest election—Grounds—Procedure.** [1980 c 179 § 6; 1975 c 19 § 1.] Recodified as RCW 28A.305.070 pursuant to 1990 c 33 § 4.

**28A.04.070 Terms of office.** [1969 ex.s. c 223 § 28A.04.070. Prior: 1955 c 218 § 7; 1947 c 258 § 9; Rem. Supp. 1947 § 4525-8. Formerly RCW 28.04.070; 43.63.090.] Recodified as RCW 28A.305.080 pursuant to 1990 c 33 § 4.

**28A.04.080 Vacancies, filling.** [1969 ex.s. c 223 § 28A.04.080. Prior: 1955 c 218 § 8; 1947 c 258 § 10; Rem. Supp. 1947 § 4525-9. Formerly RCW 28.04.080; 43.63.100.] Recodified as RCW 28A.305.090 pursuant to 1990 c 33 § 4.

**28A.04.090 Superintendent as ex officio member and chief executive officer of board.** [1982 c 160 § 1; 1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28.04.090; 43.63.110.] Recodified as RCW 28A.305.100 pursuant to 1990 c 33 § 4.

**28A.04.100 Ex officio secretary of board.** [1982 c 160 § 3; 1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527.

Formerly RCW 28.04.100; 43.63.120.] Recodified as RCW 28A.305.110 pursuant to 1990 c 33 § 4.

**28A.04.110 Meetings—Compensation and travel expenses of members.** [1984 c 287 § 60; 1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28.04.110; 43.63.130.] Recodified as RCW 28A.305.120 pursuant to 1990 c 33 § 4.

**28A.04.120 Powers and duties generally.** [1987 c 464 § 1; 1987 c 39 § 1. Prior: 1986 c 266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.] Recodified as RCW 28A.305.130 pursuant to 1990 c 33 § 4.

**28A.04.122 Requirements for admission to teacher preparation programs—Exemptions—Rules.** [1988 c 251 § 4; 1987 c 525 § 202.] Recodified as RCW 28A.410.020 pursuant to 1990 c 33 § 4.

**28A.04.123 Exit examinations for candidates for certification—Board to adopt rules.** Cross-reference section, decodified June 1990.

**28A.04.125 Delegation to ESD of state board of education program, project or service—Contract.** Cross-reference section, decodified June 1990.

**28A.04.127 Waiver from provisions of RCW 28A.58.750 through 28A.58.754 authorized, when—Criteria by board.** [1985 c 349 § 6.] Recodified as RCW 28A.305.140 pursuant to 1990 c 33 § 4.

**28A.04.130 Classification, numbering system of school districts—Rules and regulations for.** [1971 c 54 § 1; 1969 ex.s. c 223 § 28A.04.130. Prior: 1917 c 21 § 2; RRS § 4711. Formerly RCW 28.04.130; 28.01.040, part; 43.63.150.] Recodified as RCW 28A.305.150 pursuant to 1990 c 33 § 4.

**28A.04.131 School bus drivers, training and qualifications—Rules and regulations for.** [1989 c 178 § 20; 1981 c 200 § 1; 1979 c 158 § 89; 1969 ex.s. c 153 § 4.] Recodified as RCW 28A.160.210 pursuant to 1990 c 33 § 4.

**28A.04.132 Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students.** [1975-'76 2nd ex.s. c 97 § 1; 1971 ex.s. c 268 § 2.] Recodified as RCW 28A.305.160 pursuant to 1990 c 33 § 4.

**28A.04.133 Rules and regulations accepting national guard high school career training.** [1975 1st ex.s. c 262 § 1.] Recodified as RCW 28A.305.170 pursuant to 1990 c 33 § 4.

**28A.04.134 Rules and regulations integrating library and media services into learning resources services.** [1985 c 341 § 3; 1975 1st ex.s. c 127 § 1.] Recodified as RCW 28A.305.180 pursuant to 1990 c 33 § 4.

**28A.04.135 Certificate of educational competence, rules for issuance.** [1973 c 51 § 2.] Recodified as RCW 28A.305.190 pursuant to 1990 c 33 § 4.

**28A.04.140 Seal.** [1969 ex.s. c 223 § 28A.04.140. Prior: 1909 c 97 p 238 § 7; RRS § 4531. Formerly RCW 28.04.140; 28.01.040, part; 43.63.160.] Recodified as RCW 28A.305.200 pursuant to 1990 c 33 § 4.

**28A.04.145 Assistance of educational service district boards and superintendents—Scope.** [1975 1st ex.s. c 275 § 51; 1971 ex.s. c 282 § 30.] Recodified as RCW 28A.305.210 pursuant to 1990 c 33 § 4.

**28A.04.155 Development of standardized high school transcripts—School districts to inform students of importance.** [1984 c 178 § 1.] Recodified as RCW 28A.305.220 pursuant to 1990 c 33 § 4.

**28A.04.165 Program standards for professional programs—Instruction in child abuse issues encouraged.** [1985 c 419 § 1.] Recodified as RCW 28A.305.230 pursuant to 1990 c 33 § 4.

**28A.04.167 Recommendations about written subject matter examination—Sample testing—Report to legislature.** [1987 c 525 § 204.] Decodified pursuant to 1990 c 33 § 602.

**28A.04.170 Review and study of teacher preparation program field experience including internships—Report.** [1987 c 525 § 213.] Decodified pursuant to 1990 c 33 § 602.

**28A.04.172 Post-baccalaureate professional teacher preparation program—Masters degree—Implementation—Standards.** [1987 c 525 § 214.] Decodified pursuant to 1990 c 33 § 602.

**28A.04.174 Professional education requirements for initial or professional certification.** [1987 c 525 § 216.] Decodified pursuant to 1990 c 33 § 602.

**28A.04.176 Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education.** [1987 c 525 § 217.] Recodified as RCW 28A.305.240 pursuant to 1990 c 33 § 4.

**28A.04.178 Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature.** [1989 c 11 § 4; 1987 c 525 § 226.] Recodified as RCW 28A.305.250 pursuant to 1990 c 33 § 4.

**28A.04.180 Educational paraprofessional associate of arts degree.** [1989 c 370 § 1.] Recodified as RCW 28A.630.400 pursuant to 1990 c 33 § 4.

**28A.04.204 Nonhigh school district capital fund aid to high school districts, board duties concerning plan for.** Cross-reference section, decodified June 1990.

**28A.04.205 Nursery schools, board to make rules and regulations concerning.** Cross-reference section, decodified June 1990.

**28A.04.206 Studies, courses of instruction, board to prescribe.** Cross-reference section, decodified June 1990.

**28A.04.230 Certification of personnel employed in the common schools, board duties concerning.** Cross-reference section, decodified June 1990.

**28A.04.265 Joint school district financing plan involving construction of school facilities, board duties concerning.** Cross-reference section, decodified June 1990.

**28A.04.275 Transfer of records to educational service district headquarters office, board duties concerning.** Cross-reference section, decodified June 1990.

**28A.04.280 Educational service district system, board duties concerning.** Cross-reference section, decodified June 1990.

**28A.04.285 Educational service district board—member districts, board duties concerning.** Cross-reference section, decodified June 1990.

**28A.04.286 Self-study process by school districts—Board to adopt rules.** Cross-reference section, decodified June 1990.

**28A.04.287 Accreditation standards for preschools—Board to establish standards and procedures.** Cross-reference section, decodified June 1990.

**28A.04.288 Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates—Superintendent's duties.** Cross-reference section, decodified June 1990.

**28A.04.289 Schools for the twenty-first century pilot program—Board's duties.** Cross-reference section, decodified June 1990.

**28A.04.290 Student teaching pilot program—Board's duties.** Cross-reference section, decodified June 1990.

#### Chapter 28A.05

#### COMPULSORY COURSES

**28A.05.005 Course content requirements—Duties of school district boards of directors.** [1984 c 278 § 2.] Recodified as RCW 28A.230.010 pursuant to 1990 c 33 § 4.

**28A.05.010 Common school curriculum—Fundamentals in conduct.** [1988 c 206 § 403; 1987 c 232 § 1; 1986 c 149 § 4; 1969 c 71 § 3;

1969 ex.s. c 223 § 28A.05.010. Prior: 1909 p 262 § 2; RRS § 4681; prior: 1897 c 118 § 65; 1895 c 5 § 1; 1890 p 372 § 45; 1886 p 19 § 52. Formerly RCW 28.05.010 and 28.05.020.] Recodified as RCW 28A.230.020 pursuant to 1990 c 33 § 4.

**28A.05.015 Students taught in English language—Exception.** [1969 c 71 § 4. Like section formerly RCW 28.05.015.] Recodified as RCW 28A.230.030 pursuant to 1990 c 33 § 4.

**28A.05.030 Physical education in grades one through eight.** [1984 c 52 § 1; 1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28.05.030.] Recodified as RCW 28A.230.040 pursuant to 1990 c 33 § 4.

**28A.05.040 Physical education in high schools.** [1985 c 384 § 3; 1984 c 52 § 2; 1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.] Recodified as RCW 28A.230.050 pursuant to 1990 c 33 § 4.

**28A.05.050 History and government in high schools.** [1969 ex.s. c 57 § 2; 1969 ex.s. c 223 § 28A.05.050. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050.] Recodified as RCW 28A.230.060 pursuant to 1990 c 33 § 4.

**28A.05.055 AIDS education in public schools—Limitations—Program adoption—Model curricula—Student's exclusion from participation.** [1988 c 206 § 402.] Recodified as RCW 28A.230.070 pursuant to 1990 c 33 § 4.

**28A.05.060 High school graduation requirements or equivalencies—Reevaluation and report by state board of education.** [1988 c 172 § 1; 1985 c 384 § 2; 1984 c 278 § 6.] Recodified as RCW 28A.230.090 pursuant to 1990 c 33 § 4.

**28A.05.062 Rules implementing RCW 28A.05.060 to be adopted—Temporary exemptions—Special alterations—Competency testing.** [1985 c 384 § 1.] Recodified as RCW 28A.230.100 pursuant to 1990 c 33 § 4.

**28A.05.064 Elective requirement.** [1985 c 384 § 4.] Recodified as RCW 28A.230.110 pursuant to 1990 c 33 § 4.

**28A.05.070 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions.** [1988 c 172 § 2; 1984 c 278 § 16.] Recodified as RCW 28A.230.130 pursuant to 1990 c 33 § 4.

#### Chapter 28A.08

##### TRAFFIC SAFETY EDUCATION COURSES

**28A.08.005 Legislative declaration.** [1977 c 76 § 1. Formerly RCW 46.81.005.] Recodified as RCW 28A.220.010 pursuant to 1990 c 33 § 4.

**28A.08.010 Definitions.** [1979 c 158 § 195; 1977 c 76 § 2; 1969 ex.s. c 218 § 1; 1963 c 39 § 2. Formerly RCW 46.81.010.] Recodified as RCW 28A.220.020 pursuant to 1990 c 33 § 4.

**28A.08.020 Administration of program—Powers and duties of school officials.** [1979 c 158 § 196; 1977 c 76 § 3; 1969 ex.s. c 218 § 2; 1963 c 39 § 3. Formerly RCW 46.81.020.] Recodified as RCW 28A.220.030 pursuant to 1990 c 33 § 4.

**28A.08.060 Fiscal support—Traffic safety education account.** Cross-reference section, decodified June 1990.

**28A.08.070 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit.** [1984 c 258 § 331; 1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8. Formerly RCW 46.81.070.] Recodified as RCW 28A.220.040 pursuant to 1990 c 33 § 4.

**28A.08.080 Information on proper use of left-hand lane.** [1986 c 93 § 4.] Recodified as RCW 28A.220.050 pursuant to 1990 c 33 § 4.

**28A.08.900 Declaration of purpose.** [1969 ex.s. c 218 § 7; 1963 c 39 § 1. Formerly RCW 46.81.900.] Recodified as RCW 28A.220.900 pursuant to 1990 c 33 § 4.

#### Chapter 28A.13

##### SPECIAL EDUCATION—CHILDREN WITH HANDICAPPING CONDITIONS

**28A.13.005 Purpose.** [1971 ex.s. c 66 § 1.] Recodified as RCW 28A.155.010 pursuant to 1990 c 33 § 4.

**28A.13.010 Administrative section or unit for the education of children with handicapping conditions—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.** [1985 c 341 § 4; 1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28.13.010.] Recodified as RCW 28A.155.020 pursuant to 1990 c 33 § 4.

**28A.13.020 Division administrative officer—Appointment—Duties.** [1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679-27. Formerly RCW 28.13.020.] Recodified as RCW 28A.155.030 pursuant to 1990 c 33 § 4.

**28A.13.030 Authority of districts—Participation of department of social and health services.** [1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28.13.030.] Recodified as RCW 28A.155.040 pursuant to 1990 c 33 § 4.

**28A.13.040 Aid for children unable to attend school—Apportionment—Allocations from state excess funds.** [1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28.13.040.] Recodified as RCW 28A.155.050 pursuant to 1990 c 33 § 4.

**28A.13.045 District authority to contract with approved agencies—Approval standards.** [1971 ex.s. c 66 § 6.] Recodified as RCW 28A.155.060 pursuant to 1990 c 33 § 4.

**28A.13.050 Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds.** [1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28.13.050.] Recodified as RCW 28A.155.070 pursuant to 1990 c 33 § 4.

**28A.13.060 Appeal from superintendent's denial of educational program.** [1971 ex.s. c 66 § 8.] Recodified as RCW 28A.155.080 pursuant to 1990 c 33 § 4.

**28A.13.070 Superintendent of public instruction's duty and authority.** [1985 c 341 § 5; 1971 ex.s. c 66 § 9.] Recodified as RCW 28A.155.090 pursuant to 1990 c 33 § 4.

**28A.13.071 Curriculum-based assessment procedures—Superintendent's duties.** Cross-reference section, decodified June 1990.

**28A.13.080 Sanctions applied to noncomplying districts.** [1971 ex.s. c 66 § 12.] Recodified as RCW 28A.155.100 pursuant to 1990 c 33 § 4.

**28A.13.090 Transportation of handicapped children.** Cross-reference section, decodified June 1990.

**28A.13.100 Appropriations for handicapped programs.** Cross-reference section, decodified June 1990.

#### Chapter 28A.16

##### PROGRAMS FOR HIGHLY CAPABLE STUDENTS

**28A.16.040 Program—Duties of superintendent of public instruction.** [1984 c 278 § 12.] Recodified as RCW 28A.185.010 pursuant to 1990 c 33 § 4.

**28A.16.050 Funding.** [1984 c 278 § 14.] Recodified as RCW 28A.185.020 pursuant to 1990 c 33 § 4.

**28A.16.060 Programs—Authority of local school districts—Selection of students.** [1984 c 278 § 13.] Recodified as RCW 28A.185.030 pursuant to 1990 c 33 § 4.

**28A.16.070 Education of highly capable students at early entrance program or transition school at University of Washington—Allocation of funds.** Cross-reference section, decodified June 1990.

## Chapter 28A.21

## EDUCATIONAL SERVICE DISTRICTS—SUPERINTENDENT—BOARDS

**28A.21.010 Purpose.** [1988 c 65 § 1; 1977 ex.s. c 283 § 1; 1975 1st ex.s. c 275 § 1; 1971 ex.s. c 282 § 1; 1969 ex.s. c 176 § 1. Formerly RCW 28.19.500.] Recodified as RCW 28A.310.010 pursuant to 1990 c 33 § 4.

**28A.21.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties.** [1977 ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28.19.505.] Recodified as RCW 28A.310.020 pursuant to 1990 c 33 § 4.

**28A.21.030 ESD board—Members—Number, from board—member districts—Board—member district boundaries, determination of, changes in.** [1977 ex.s. c 283 § 14; 1975 1st ex.s. c 275 § 3; 1974 ex.s. c 75 § 1; 1971 ex.s. c 282 § 3; 1969 ex.s. c 176 § 3. Formerly RCW 28.19.510.] Recodified as RCW 28A.310.030 pursuant to 1990 c 33 § 4.

**28A.21.0303 ESD board—Members—Terms.** [1975 1st ex.s. c 275 § 5; 1974 ex.s. c 75 § 4.] Recodified as RCW 28A.310.040 pursuant to 1990 c 33 § 4.

**28A.21.0304 ESD board—Members—Terms, when nine member board.** [1977 ex.s. c 283 § 19; 1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5.] Recodified as RCW 28A.310.050 pursuant to 1990 c 33 § 4.

**28A.21.0305 ESD board—Members—Terms, begin when—Vacancies, filling of.** [1977 ex.s. c 283 § 20; 1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6.] Recodified as RCW 28A.310.060 pursuant to 1990 c 33 § 4.

**28A.21.0306 ESD board—Members—Restriction on other service.** [1975 1st ex.s. c 275 § 8; 1974 ex.s. c 75 § 7.] Recodified as RCW 28A.310.070 pursuant to 1990 c 33 § 4.

**28A.21.031 ESD board—Members—Elections, calling and notice of.** [1977 ex.s. c 283 § 15.] Recodified as RCW 28A.310.080 pursuant to 1990 c 33 § 4.

**28A.21.032 ESD board—Members—Elections, filing of declarations of candidacy.** [1977 ex.s. c 283 § 16.] Recodified as RCW 28A.310.090 pursuant to 1990 c 33 § 4.

**28A.21.033 ESD board—Members—Elections, procedure—Certification of results.** [1980 c 179 § 7; 1977 ex.s. c 283 § 17.] Recodified as RCW 28A.310.100 pursuant to 1990 c 33 § 4.

**28A.21.034 ESD board—Members—Elections, contest of.** [1977 ex.s. c 283 § 18.] Recodified as RCW 28A.310.110 pursuant to 1990 c 33 § 4.

**28A.21.035 ESD board—Return to seven member board.** [1977 ex.s. c 283 § 21; 1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4.] Recodified as RCW 28A.310.120 pursuant to 1990 c 33 § 4.

**28A.21.037 ESD board—Vacation of board member position because of failure to attend meetings.** [1975 1st ex.s. c 275 § 10; 1971 ex.s. c 282 § 5.] Recodified as RCW 28A.310.130 pursuant to 1990 c 33 § 4.

**28A.21.040 School district to be entirely within single educational service district.** [1975 1st ex.s. c 275 § 11; 1971 ex.s. c 282 § 6; 1969 ex.s. c 176 § 4. Formerly RCW 28.19.515.] Recodified as RCW 28A.310.140 pursuant to 1990 c 33 § 4.

**28A.21.050 ESD board—Members, qualification, oath, bond—Organization—Quorum.** [1977 ex.s. c 283 § 22; 1975 1st ex.s. c 275 § 12; 1971 ex.s. c 282 § 7; 1969 ex.s. c 176 § 5. Formerly RCW 28.19.520.] Recodified as RCW 28A.310.150 pursuant to 1990 c 33 § 4.

**28A.21.060 ESD board—Reimbursement of members for expenses.** [1977 ex.s. c 283 § 3; 1975-76 2nd ex.s. c 34 § 68; 1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28.19.525.] Recodified as RCW 28A.310.160 pursuant to 1990 c 33 § 4.

**28A.21.071 ESD superintendent—Appointment, procedure—Term, salary, discharge—ESD superintendent review committee.** [1985 c 341 § 7; 1977 ex.s. c 283 § 4.] Recodified as RCW 28A.310.170 pursuant to 1990 c 33 § 4.

**28A.21.086 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs including pupil transportation.** [1988 c 65 § 2; 1987 c 508 § 3; 1982 c 46 § 1; 1979 ex.s. c 66 § 1; 1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11.] Recodified as RCW 28A.310.180 pursuant to 1990 c 33 § 4.

**28A.21.088 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data.** [1983 c 56 § 2; 1981 c 103 § 2; 1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12.] Recodified as RCW 28A.310.190 pursuant to 1990 c 33 § 4.

**28A.21.090 ESD board—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority.** [1988 c 65 § 3; 1983 c 56 § 3; 1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28.19.540.] Recodified as RCW 28A.310.200 pursuant to 1990 c 33 § 4.

**28A.21.092 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions.** [1975 1st ex.s. c 275 § 19; 1971 ex.s. c 282 § 14.] Recodified as RCW 28A.310.210 pursuant to 1990 c 33 § 4.

**28A.21.095 ESD board—Delegation of powers and duties to superintendent.** [1975 1st ex.s. c 275 § 20; 1974 ex.s. c 75 § 9; 1971 ex.s. c 282 § 15.] Recodified as RCW 28A.310.220 pursuant to 1990 c 33 § 4.

**28A.21.100 Assistant superintendents and other personnel—Appointment, salaries, duties.** [1975 1st ex.s. c 275 § 21; 1974 ex.s. c 75 § 10; 1971 ex.s. c 282 § 16; 1969 ex.s. c 176 § 10. Formerly RCW 28.19.545.] Recodified as RCW 28A.310.230 pursuant to 1990 c 33 § 4.

**28A.21.102 Employee leave policy required.** [1989 c 208 § 1.] Recodified as RCW 28A.310.240 pursuant to 1990 c 33 § 4.

**28A.21.105 Certificated employees of district—Contracts of employment—Nonrenewal of contracts.** [1977 ex.s. c 283 § 7; 1975 1st ex.s. c 275 § 22; 1974 ex.s. c 75 § 11; 1971 c 48 § 6; 1969 ex.s. c 34 § 19. Like section formerly RCW 28.19.601.] Recodified as RCW 28A.310.250 pursuant to 1990 c 33 § 4.

**28A.21.106 Certificated employees of district—Adverse change in contract status—Notice—Probable cause—Review—Appeal.** [1977 ex.s. c 283 § 8; 1975 1st ex.s. c 275 § 23; 1974 ex.s. c 75 § 12; 1971 c 48 § 7; 1969 ex.s. c 34 § 20. Like section formerly RCW 28.19.602.] Recodified as RCW 28A.310.260 pursuant to 1990 c 33 § 4.

**28A.21.110 ESD superintendent's powers and duties—Generally.** [1975 1st ex.s. c 275 § 24; 1974 ex.s. c 75 § 13; 1972 ex.s. c 3 § 1; 1971 ex.s. c 282 § 17; 1969 ex.s. c 176 § 11. Formerly RCW 28.19.550.] Recodified as RCW 28A.310.270 pursuant to 1990 c 33 § 4.

**28A.21.111 ESD superintendent's powers and duties—Records and reports.** [1975 1st ex.s. c 275 § 25; 1974 ex.s. c 75 § 14.] Recodified as RCW 28A.310.280 pursuant to 1990 c 33 § 4.

**28A.21.112 ESD superintendent's powers and duties—Oaths and affirmations.** [1975 1st ex.s. c 275 § 26; 1974 ex.s. c 75 § 15.] Recodified as RCW 28A.310.290 pursuant to 1990 c 33 § 4.

**28A.21.113 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization.** [1975 1st ex.s. c 275 § 27; 1974 ex.s. c 75 § 16.] Recodified as RCW 28A.310.300 pursuant to 1990 c 33 § 4.

**28A.21.120 Headquarters office—Records transferred, state board duties.** [1985 c 341 § 8; 1975 1st ex.s. c 275 § 28; 1974 ex.s. c 75 § 17; 1971 ex.s. c 282 § 18; 1969 ex.s. c 176 § 12. Formerly RCW 28.19.555.] Recodified as RCW 28A.310.310 pursuant to 1990 c 33 § 4.

**28A.21.130 ESD superintendents, employees—Travel expenses and subsistence—Advance payment.** [1975-76 2nd ex.s. c 34 § 69; 1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28.19.560.] Recodified as RCW 28A.310.320 pursuant to 1990 c 33 § 4.

**28A.21.135 Budgeting procedures for districts.** [1977 ex.s. c 283 § 12; 1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20.] Recodified as RCW 28A.310.330 pursuant to 1990 c 33 § 4.

**28A.21.136 Identification of core services for budget purposes—Generally.** [1977 ex.s. c 283 § 9.] Recodified as RCW 28A.310.340 pursuant to 1990 c 33 § 4.

**28A.21.137 Identification of core services for budget purposes—Specific services listed.** [1977 ex.s. c 283 § 10.] Recodified as RCW 28A.310.350 pursuant to 1990 c 33 § 4.

**28A.21.138 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request.** [1977 ex.s. c 283 § 11.] Recodified as RCW 28A.310.360 pursuant to 1990 c 33 § 4.

**28A.21.140 District budget—State funds, allocation of—District general expense fund—Created, deposits, expenditures.** [1983 c 56 § 4; 1975 1st ex.s. c 275 § 31; 1971 ex.s. c 282 § 22; 1969 ex.s. c 176 § 14. Formerly RCW 28.19.565.] Recodified as RCW 28A.310.370 pursuant to 1990 c 33 § 4.

**28A.21.160 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries.** [1975 1st ex.s. c 275 § 32; 1971 ex.s. c 282 § 23; 1969 ex.s. c 176 § 16. Formerly RCW 28.19.575.] Recodified as RCW 28A.310.380 pursuant to 1990 c 33 § 4.

**28A.21.170 District budget request—Procedure for approval.** [1975 1st ex.s. c 275 § 33; 1971 ex.s. c 282 § 21; 1969 ex.s. c 176 § 17. Formerly RCW 28.19.580.] Recodified as RCW 28A.310.390 pursuant to 1990 c 33 § 4.

**28A.21.195 Legal services.** [1975 1st ex.s. c 275 § 35; 1974 ex.s. c 75 § 23.] Recodified as RCW 28A.310.400 pursuant to 1990 c 33 § 4.

**28A.21.200 Ex officio treasurer of district.** [1975 1st ex.s. c 275 § 36; 1969 ex.s. c 176 § 21. Formerly RCW 28.19.595.] Recodified as RCW 28A.310.410 pursuant to 1990 c 33 § 4.

**28A.21.210 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained.** [1969 ex.s. c 176 § 22. Formerly RCW 28.19.600.] Recodified as RCW 28A.310.420 pursuant to 1990 c 33 § 4.

**28A.21.220 Local school district superintendents to advise board and superintendent.** [1975 1st ex.s. c 275 § 37; 1971 ex.s. c 282 § 28; 1969 ex.s. c 176 § 23. Formerly RCW 28.19.605.] Recodified as RCW 28A.310.430 pursuant to 1990 c 33 § 4.

**28A.21.240 Actions against officers, employees or agents of school districts and educational service districts—Defenses, costs and fees.** Cross-reference section, decodified June 1990.

**28A.21.250 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.** Cross-reference section, decodified June 1990.

**28A.21.255 ESD as self-insurer—Authority.** [1982 c 191 § 9.] Recodified as RCW 28A.310.440 pursuant to 1990 c 33 § 4.

**28A.21.300 State supported environmental study centers—District operation.** [1975 1st ex.s. c 275 § 38; 1974 ex.s. c 91 § 5.] Recodified as RCW 28A.310.450 pursuant to 1990 c 33 § 4.

**28A.21.310 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.** [1987 c 508 § 2; 1977 ex.s. c 210 § 2.] Recodified as RCW 28A.310.460 pursuant to 1990 c 33 § 4.

**28A.21.350 Delegation to ESD of SPI program, project or service—Contract.** [1977 ex.s. c 283 § 5.] Recodified as RCW 28A.310.470 pursuant to 1990 c 33 § 4.

**28A.21.355 Delegation to ESD of state board of education program, project or service—Contract.** [1977 ex.s. c 283 § 6.] Recodified as RCW 28A.310.480 pursuant to 1990 c 33 § 4.

**28A.21.360 ESD employee attendance incentive program—Remuneration for unused sick leave.** [1989 c 69 § 1; 1985 c 341 § 9; 1980 c 182 § 6.] Recodified as RCW 28A.310.490 pursuant to 1990 c 33 § 4.

**28A.21.900 Phrases to have meanings ascribed herein.** [1975 1st ex.s. c 275 § 155.] Recodified as RCW 28A.310.900 pursuant to 1990 c 33 § 4.

## Chapter 28A.24

## SCHOOL TRANSPORTATION

**28A.24.055 Operation of student transportation program—Responsibility of local district—Scope—Transporting of elderly—Insurance.** [1986 c 32 § 1; 1983 1st ex.s. c 61 § 1; 1981 c 265 § 10; 1980 c 122 § 2; 1973 c 45 § 1; 1971 c 24 § 3; 1969 ex.s. c 153 § 3; 1969 ex.s. c 223 § 28A.24.055. Prior: (i) 1969 c 53 § 1; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 90 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100, part. (ii) 1965 ex.s. c 86 § 1. Formerly RCW 28.58.421.] Recodified as RCW 28A.160.010 pursuant to 1990 c 33 § 4.

**28A.24.065 Authorization for private school students to ride buses—Conditions.** [1981 c 307 § 1.] Recodified as RCW 28A.160.020 pursuant to 1990 c 33 § 4.

**28A.24.075 Reimbursement for transportation costs—Method.** Cross-reference section, decodified June 1990.

**28A.24.076 Reimbursement for transportation costs—Superintendent may make rules and regulations.** Cross-reference section, decodified June 1990.

**28A.24.077 Contracts for pupil transportation services.** Cross-reference section, decodified June 1990.

**28A.24.078 Bid procedure for contract for pupil transportation services with private nongovernmental entity.** Cross-reference section, decodified June 1990.

**28A.24.100 Authorizing individual transportation or other arrangements.** [1981 c 265 § 11; 1977 c 80 § 2; 1971 ex.s. c 66 § 10; 1969 ex.s. c 223 § 28A.24.100. Prior: 1965 ex.s. c 154 § 9. Formerly RCW 28.24.100.] Recodified as RCW 28A.160.030 pursuant to 1990 c 33 § 4.

**28A.24.110 Lease of buses to transport handicapped children and elderly—Limitation.** [1973 c 45 § 2; 1971 c 78 § 1.] Recodified as RCW 28A.160.040 pursuant to 1990 c 33 § 4.

**28A.24.111 Lease of buses to transport handicapped children and elderly—Directors to authorize.** [1971 c 78 § 2.] Recodified as RCW 28A.160.050 pursuant to 1990 c 33 § 4.

**28A.24.112 Lease of buses to transport handicapped children and elderly—Lease at local level—Criteria.** [1971 c 78 § 3.] Recodified as RCW 28A.160.060 pursuant to 1990 c 33 § 4.

**28A.24.120 Lease of buses to transport handicapped children and elderly—Elderly persons defined—Program limitation.** [1973 c 45 § 3.] Recodified as RCW 28A.160.070 pursuant to 1990 c 33 § 4.

**28A.24.170 School buses, rental or lease for emergency purposes—Authorization.** [1971 c 24 § 1.] Recodified as RCW 28A.160.080 pursuant to 1990 c 33 § 4.

**28A.24.172 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease.** [1986 c 266 § 21; 1985 c 7 § 88; 1974 ex.s. c 171 § 1; 1971 c 24 § 2.] Recodified as RCW 28A.160.090 pursuant to 1990 c 33 § 4.

**28A.24.175 School buses, transport of general public to interscholastic activities—Limitations.** [1980 c 91 § 1.] Recodified as RCW 28A.160.100 pursuant to 1990 c 33 § 4.

**28A.24.178 School buses, authorization for parent, guardian or custodian of a student to ride—Limitations.** [1980 c 122 § 1.] Recodified as RCW 28A.160.110 pursuant to 1990 c 33 § 4.

**28A.24.180 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations.** [1974 ex.s. c 93 § 1.] Recodified as RCW 28A.160.120 pursuant to 1990 c 33 § 4.

**28A.24.200 School bus drivers, training and qualifications, rules and regulations for.** Cross-reference section, decodified June 1990.

## Chapter 28A.26

## REQUIRING ATTENDANCE GEOGRAPHICALLY NEAR STUDENT'S RESIDENCE

**28A.26.010 General rule—Exceptions.** [1979 c 4 § 1 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.020 Application of next geographically nearest rule.** [1979 c 4 § 2 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.030 Explanation of phrase as used in RCW 28A.26.010.** [1979 c 4 § 3 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.040 Explanation of "special education, care or guidance" as used in RCW 28A.26.010.** [1979 c 4 § 4 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.050 Voluntary options not precluded.** [1979 c 4 § 5 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.060 Adjudication of constitutional issues not precluded.** [1979 c 4 § 6 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

**28A.26.900 Severability—1979 c 4.** [1979 c 4 § 8 (Initiative Measure No. 350, approved November 7, 1978).] Repealed by 1991 c 116 § 26.

## Chapter 28A.27

## COMPULSORY SCHOOL ATTENDANCE

**28A.27.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school—Child responsible for attending school—Exceptions—Excused temporary absences.** [1986 c 132 § 1; 1985 c 441 § 1; 1980 c 59 § 1; 1979 ex.s. c 201 § 4; 1973 c 51 § 1; 1972 ex.s. c 10 § 2. Prior: 1971 ex.s. c 215 § 2; 1971 ex.s. c 51 § 1; 1969 ex.s. c 109 § 2; 1969 ex.s. c 223 § 28A.27.010; prior: 1909 p 364 § 1; RRS § 5072; prior: 1907 c 240 § 7; 1907 c 231 § 1; 1905 c 162 § 1; 1903 c 48 § 1; 1901 c 177 § 11; 1899 c 140 § 1; 1897 c 118 § 71. Formerly RCW 28.27.010.] Recodified as RCW 28A.225.010 pursuant to 1990 c 33 § 4.

**28A.27.020 School's duties upon juvenile's failure to attend school—Generally.** [1986 c 132 § 2; 1979 ex.s. c 201 § 1.] Recodified as RCW 28A.225.020 pursuant to 1990 c 33 § 4.

**28A.27.022 Petition to juvenile court for violations by a parent or child—Applicability of chapter.** [1986 c 132 § 3; 1979 ex.s. c 201 § 2.] Recodified as RCW 28A.225.030 pursuant to 1990 c 33 § 4.

**28A.27.030 School district superintendent to provide teacher with census—Report of truants, incorrigibles.** [1969 ex.s. c 223 § 28A.27.030. Prior: 1909 c 97 p 367 § 6; RRS § 5077; prior: 1907 c 231 § 6; 1905 c 162 § 6; 1903 c 48 §§ 2, 3, 4. Formerly RCW 28.27.030.] Recodified as RCW 28A.225.040 pursuant to 1990 c 33 § 4.

**28A.27.040 Attendance enforcement officers—Authority—Record and report.** [1986 c 132 § 4; 1975 1st ex.s. c 275 § 56; 1971 c 48 § 9; 1969 ex.s. c 176 § 105; 1969 ex.s. c 223 § 28A.27.040. Prior: 1909 c 97 p 365 § 4; RRS § 5075; prior: 1907 c 231 § 4; 1905 c 162 § 4. Formerly RCW 28.27.040, 28.27.050 and 28.27.060.] Recodified as RCW 28A.225.050 pursuant to 1990 c 33 § 4.

**28A.27.070 Acquiring custody and disposition of truants.** [1979 ex.s. c 201 § 5; 1977 ex.s. c 291 § 52; 1969 ex.s. c 223 § 28A.27.070. Prior: 1909 c 97 p 366 § 5; RRS § 5076; prior: 1907 c 231 § 5; 1905 c 162 § 5. Formerly RCW 28.27.070.] Recodified as RCW 28A.225.060 pursuant to 1990 c 33 § 4.

**28A.27.080 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.** [1975 1st ex.s. c 275 § 57; 1969 ex.s. c 176 § 106; 1969 ex.s. c 223 § 28A.27.080. Prior: 1909 c 97 p 367 § 9; RRS § 5080; prior: 1907 c 231 § 9. Formerly RCW 28.27.080 and 28.87.040.] Recodified as RCW 28A.225.070 pursuant to 1990 c 33 § 4.

**28A.27.090 Employment permits.** [1969 ex.s. c 223 § 28A.27.090. Prior: 1909 c 97 p 365 § 2; RRS § 5073; prior: 1907 c 231 § 2; 1905 c

162 § 2; 1903 c 48 § 2. Formerly RCW 28.27.090.] Recodified as RCW 28A.225.080 pursuant to 1990 c 33 § 4.

**28A.27.100 Penalties in general—Defense—Suspension of fine—Complaints to court.** [1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100. Prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28.27.100.] Recodified as RCW 28A.225.090 pursuant to 1990 c 33 § 4.

**28A.27.102 Penalty for nonperformance of duty—Disposition of fines.** [1987 c 202 § 190; 1975 1st ex.s. c 275 § 58; 1970 ex.s. c 15 § 14. Prior: 1969 ex.s. c 199 § 53; 1969 ex.s. c 176 § 107; 1969 ex.s. c 223 § 28A.27.102; prior: 1909 p 368 § 10; RRS § 5081; 1907 c 231 § 10; 1905 c 162 § 10; 1903 c 48 § 7. Formerly RCW 28.27.102, 28.27.100, part.] Recodified as RCW 28A.225.100 pursuant to 1990 c 33 § 4.

**28A.27.104 Fines applied to support of schools.** [1987 c 202 § 191; 1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28.27.104, 28.27.100, part.] Recodified as RCW 28A.225.110 pursuant to 1990 c 33 § 4.

**28A.27.110 Prosecuting attorney or attorney for district to act for complainant.** [1986 c 132 § 6; 1979 ex.s. c 201 § 7; 1969 ex.s. c 223 § 28A.27.110. Prior: 1909 c 97 p 367 § 8; RRS § 5079; prior: 1901 c 177 § 19; 1899 c 142 § 25; 1897 c 118 § 177; 1890 p 382 § 83. Formerly RCW 28.27.110.] Recodified as RCW 28A.225.120 pursuant to 1990 c 33 § 4.

**28A.27.120 Courts have concurrent jurisdiction.** [1987 c 202 § 192; 1969 ex.s. c 223 § 28A.27.120. Prior: 1909 c 97 p 367 § 7; RRS § 5078; prior: 1907 c 231 § 7; 1905 c 162 § 7. Formerly RCW 28.27.120.] Recodified as RCW 28A.225.130 pursuant to 1990 c 33 § 4.

**28A.27.130 Enforcing officers not personally liable for costs.** [1969 ex.s. c 223 § 28A.27.130. Prior: 1909 c 97 p 368 § 12; RRS § 5083; prior: 1907 c 231 § 13; 1905 c 162 § 12. Formerly RCW 28.27.130.] Recodified as RCW 28A.225.140 pursuant to 1990 c 33 § 4.

**28A.27.140 Reports by school district attendance officers—Compilation of information and reports.** [1986 c 132 § 7.] Recodified as RCW 28A.225.150 pursuant to 1990 c 33 § 4.

**28A.27.290 Private schools must report attendance.** Cross-reference section, decodified June 1990.

**28A.27.300 Enforcement by educational service district superintendent.** Cross-reference section, decodified June 1990.

**28A.27.310 Home-based instruction—Duties of parents.** [1985 c 441 § 2.] Recodified as RCW 28A.200.010 pursuant to 1990 c 33 § 4.

**28A.27.320 Home-based instruction—Certain decisions responsibility of parent unless otherwise specified.** [1985 c 441 § 3.] Recodified as RCW 28A.200.020 pursuant to 1990 c 33 § 4.

## Chapter 28A.29

## USE OF FEDERAL FUNDS FOR FOOD SERVICES

**28A.29.010 Superintendent of public instruction authorized to receive and disburse federal funds.** [1987 c 193 § 1.] Recodified as RCW 28A.235.010 pursuant to 1990 c 33 § 4.

**28A.29.020 Payment of costs—Federal food services revolving fund—Disbursements.** [1987 c 193 § 2.] Recodified as RCW 28A.235.020 pursuant to 1990 c 33 § 4.

**28A.29.030 Rules.** [1987 c 193 § 3.] Recodified as RCW 28A.235.030 pursuant to 1990 c 33 § 4.

**28A.29.040 School breakfast programs.** [1989 c 239 § 2.] Recodified as RCW 28A.235.140 pursuant to 1990 c 33 § 4.

## Chapter 28A.30

## SURPLUS OR DONATED FOOD COMMODITIES FOR SCHOOL HOT LUNCH PROGRAM

**28A.30.010 Acquisition authorized.** [1969 ex.s. c 223 § 28A.30.010. Prior: 1967 ex.s. c 92 § 1. Formerly RCW 28.30.010.] Recodified as RCW 28A.235.040 pursuant to 1990 c 33 § 4.

**28A.30.020 Contracts for—Other law applicable to.** [1969 ex.s. c 223 § 28A.30.020. Prior: 1967 ex.s. c 92 § 7. Formerly RCW 28.30.020.] Recodified as RCW 28A.235.050 pursuant to 1990 c 33 § 4.

**28A.30.030 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense.** [1969 ex.s. c 223 § 28A.30.030. Prior: 1967 ex.s. c 92 § 4. Formerly RCW 28.30.030.] Recodified as RCW 28A.235.060 pursuant to 1990 c 33 § 4.

**28A.30.040 Revolving fund created.** [1985 c 341 § 10; 1979 ex.s. c 20 § 1; 1969 ex.s. c 223 § 28A.30.040. Prior: 1967 ex.s. c 92 § 2. Formerly RCW 28.30.040.] Recodified as RCW 28A.235.070 pursuant to 1990 c 33 § 4.

**28A.30.050 Revolving fund—Administration of fund—Use—School district requisition as prerequisite.** [1969 ex.s. c 223 § 28A.30.050. Prior: 1967 ex.s. c 92 § 3. Formerly RCW 28.30.050.] Recodified as RCW 28A.235.080 pursuant to 1990 c 33 § 4.

**28A.30.060 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund.** [1969 ex.s. c 223 § 28A.30.060. Prior: 1967 ex.s. c 92 § 5. Formerly RCW 28.30.060.] Recodified as RCW 28A.235.090 pursuant to 1990 c 33 § 4.

**28A.30.070 Rules and regulations.** [1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28.30.070.] Recodified as RCW 28A.235.100 pursuant to 1990 c 33 § 4.

**28A.30.080 Suspension of laws, rules, inconsistent herewith.** [1969 ex.s. c 223 § 28A.30.080. Prior: 1967 ex.s. c 92 § 8. Formerly RCW 28.30.080.] Recodified as RCW 28A.235.110 pursuant to 1990 c 33 § 4.

#### Chapter 28A.31

#### HEALTH MEASURES

**28A.31.005 Transfer of duties to the department of health.** [1989 1st ex.s. c 9 § 239.] Recodified as RCW 28A.210.005 pursuant to 1990 c 33 § 4.

**28A.31.010 Contagious diseases, limiting contact—Rules and regulations.** [1971 c 32 § 1; 1969 ex.s. c 223 § 28A.31.010. Prior: 1909 c 97 p 262 § 5; RRS § 4689; prior: 1897 c 118 § 68; 1890 p 372 § 47. Formerly RCW 28.31.010.] Recodified as RCW 28A.210.010 pursuant to 1990 c 33 § 4.

**28A.31.020 Milk for children at school expense.** [1969 ex.s. c 223 § 28A.31.020. Prior: 1935 c 15 § 1; 1923 c 152 § 1; 1921 c 190 § 1; RRS § 4806. Formerly RCW 28.31.020.] Recodified as RCW 28A.235.130 pursuant to 1990 c 33 § 4.

**28A.31.030 Visual and auditory screening of pupils—Rules and regulations.** [1971 c 32 § 2; 1969 ex.s. c 223 § 28A.31.030. Prior: 1941 c 202 § 1; Rem. Supp. 1941 § 4689-1. Formerly RCW 28.31.030.] Recodified as RCW 28A.210.020 pursuant to 1990 c 33 § 4.

**28A.31.040 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data.** [1971 c 32 § 3; 1969 ex.s. c 223 § 28A.31.040. Prior: 1941 c 202 § 2; Rem. Supp. 1941 § 4689-2. Formerly RCW 28.31.040.] Recodified as RCW 28A.210.030 pursuant to 1990 c 33 § 4.

**28A.31.050 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution.** [1973 c 46 § 1. Prior: 1971 c 48 § 12; 1971 c 32 § 4; 1969 ex.s. c 223 § 28A.31.050; prior: 1941 c 202 § 3; RRS § 4689-3. Formerly RCW 28.31.050.] Recodified as RCW 28A.210.040 pursuant to 1990 c 33 § 4.

**28A.31.055 State otologist to aid children with hearing defects.** Cross-reference section, decodified June 1990.

**28A.31.060 Sight-saving equipment.** [1969 ex.s. c 223 § 28A.31.060. Prior: 1941 c 251 § 1; Rem. Supp. 1941 § 4689-4. Formerly RCW 28.31.060.] Recodified as RCW 28A.210.050 pursuant to 1990 c 33 § 4.

**28A.31.070 First class school districts may appoint medical inspector.** Cross-reference section, decodified June 1990.

**28A.31.080 Second class districts may employ physician or nurse.** Cross-reference section, decodified June 1990.

**28A.31.100 Immunization program—Purpose.** [1984 c 40 § 3; 1979 ex.s. c 118 § 1.] Recodified as RCW 28A.210.060 pursuant to 1990 c 33 § 4.

**28A.31.102 Immunization program—Definitions.** [1985 c 49 § 2; 1984 c 40 § 4; 1979 ex.s. c 118 § 2.] Recodified as RCW 28A.210.070 pursuant to 1990 c 33 § 4.

**28A.31.104 Immunization program—Attendance of child conditioned upon presentation of alternative proofs.** [1985 c 49 § 1; 1979 ex.s. c 118 § 3.] Recodified as RCW 28A.210.080 pursuant to 1990 c 33 § 4.

**28A.31.106 Immunization program—Exemptions from on presentation of alternative certifications.** [1984 c 40 § 5; 1979 ex.s. c 118 § 4.] Recodified as RCW 28A.210.090 pursuant to 1990 c 33 § 4.

**28A.31.110 Immunization program—Source of immunizations—Written records.** [1984 c 40 § 7; 1979 ex.s. c 118 § 6.] Recodified as RCW 28A.210.100 pursuant to 1990 c 33 § 4.

**28A.31.112 Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption.** [1979 ex.s. c 118 § 7.] Recodified as RCW 28A.210.110 pursuant to 1990 c 33 § 4.

**28A.31.114 Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents.** [1985 c 49 § 3; 1984 c 40 § 8; 1979 ex.s. c 118 § 8.] Recodified as RCW 28A.210.120 pursuant to 1990 c 33 § 4.

**28A.31.115 Immunization program—Superintendent of public instruction to provide information.** [1985 c 49 § 4.] Recodified as RCW 28A.210.130 pursuant to 1990 c 33 § 4.

**28A.31.116 Immunization program—State board of health rules, contents.** [1984 c 40 § 9; 1979 ex.s. c 118 § 9.] Recodified as RCW 28A.210.140 pursuant to 1990 c 33 § 4.

**28A.31.117 Immunization program—Superintendent of public instruction by rule to adopt procedures for verifying records.** [1985 c 49 § 5.] Recodified as RCW 28A.210.150 pursuant to 1990 c 33 § 4.

**28A.31.118 Immunization program—State board of education rules, contents.** [1979 ex.s. c 118 § 10.] Recodified as RCW 28A.210.160 pursuant to 1990 c 33 § 4.

**28A.31.120 Immunization program—Department of social and health services' rules, contents.** [1979 ex.s. c 118 § 11.] Recodified as RCW 28A.210.170 pursuant to 1990 c 33 § 4.

**28A.31.130 Screening program for scoliosis—Purpose.** [1985 c 216 § 1; 1979 c 47 § 1.] Recodified as RCW 28A.210.180 pursuant to 1990 c 33 § 4.

**28A.31.132 Screening program for scoliosis—Definitions.** [1985 c 216 § 2; 1979 c 47 § 2.] Recodified as RCW 28A.210.190 pursuant to 1990 c 33 § 4.

**28A.31.134 Screening program for scoliosis—Yearly examination of children—Personnel making examinations, training for.** [1985 c 216 § 3; 1979 c 47 § 3.] Recodified as RCW 28A.210.200 pursuant to 1990 c 33 § 4.

**28A.31.136 Screening program for scoliosis—Records—Parents or guardians notification, contents.** [1985 c 216 § 4; 1979 c 47 § 4.] Recodified as RCW 28A.210.210 pursuant to 1990 c 33 § 4.

**28A.31.138 Screening program for scoliosis—Distribution of rules, records and forms.** [1979 c 47 § 5.] Recodified as RCW 28A.210.220 pursuant to 1990 c 33 § 4.

**28A.31.139 Screening program for scoliosis—Waiver by superintendent, when.** [1985 c 216 § 6.] Recodified as RCW 28A.210.230 pursuant to 1990 c 33 § 4.

**28A.31.140 Screening program for scoliosis—Pupils exempt, when.** [1985 c 216 § 5; 1979 c 47 § 6.] Recodified as RCW 28A.210.240 pursuant to 1990 c 33 § 4.

**28A.31.142 Screening program for scoliosis—Sanctions against school officials failing to comply.** [1979 c 47 § 7.] Recodified as RCW 28A.210.250 pursuant to 1990 c 33 § 4.

**28A.31.150 Public and private schools—Administration of oral medication by—Conditions.** [1982 c 195 § 1.] Recodified as RCW 28A.210.260 pursuant to 1990 c 33 § 4.

**28A.31.155 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure.** [1982 c 195 § 2.] Recodified as RCW 28A.210.270 pursuant to 1990 c 33 § 4.

**28A.31.160 Catheterization of public and private school students.** [1988 c 48 § 2.] Recodified as RCW 28A.210.280 pursuant to 1990 c 33 § 4.

**28A.31.165 Catheterization of public and private school students—Immunity from liability.** [1988 c 48 § 3.] Recodified as RCW 28A.210.290 pursuant to 1990 c 33 § 4.

**28A.31.170 Prohibition on use of tobacco products on school property.** [1989 c 233 § 6.] Recodified as RCW 28A.210.310 pursuant to 1990 c 33 § 4.

#### Chapter 28A.34

##### NURSERY SCHOOLS, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

**28A.34.010 Authority of school boards.** [1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28.34.010.] Recodified as RCW 28A.215.010 pursuant to 1990 c 33 § 4.

**28A.34.020 Allocations of state or federal funds—Regulations by state board.** [1969 ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28.34.020, 28.34.030.] Recodified as RCW 28A.215.020 pursuant to 1990 c 33 § 4.

**28A.34.040 Allocations pending receipt of federal funds.** [1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28.34.040.] Recodified as RCW 28A.215.030 pursuant to 1990 c 33 § 4.

**28A.34.045 Receipt of federal funds for school purposes.** Cross-reference section, decodified June 1990.

**28A.34.050 Establishment and maintenance discretionary.** [1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28.34.050.] Recodified as RCW 28A.215.040 pursuant to 1990 c 33 § 4.

**28A.34.100 Voluntary accreditation for preschools—Intent.** [1986 c 150 § 1.] Recodified as RCW 28A.215.300 pursuant to 1990 c 33 § 4.

**28A.34.110 Definition of preschool.** [1986 c 150 § 2.] Recodified as RCW 28A.215.310 pursuant to 1990 c 33 § 4.

**28A.34.120 Standards for accreditation—Option to establish advisory committee.** [1986 c 150 § 3.] Recodified as RCW 28A.215.320 pursuant to 1990 c 33 § 4.

**28A.34.130 Voluntary accreditation of preschools—Prohibited practices by public or nonpublic entities.** [1986 c 150 § 4.] Recodified as RCW 28A.215.330 pursuant to 1990 c 33 § 4.

**28A.34.150 Additional authority—Contracts with private and public entities—Charges—Transportation services.** [1987 c 487 § 1.] Recodified as RCW 28A.215.050 pursuant to 1990 c 33 § 4.

#### Chapter 28A.34A

##### EARLY CHILDHOOD ASSISTANCE

**28A.34A.010 Intent.** [1985 c 418 § 1.] Recodified as RCW 28A.215.100 pursuant to 1990 c 33 § 4.

**28A.34A.020 Definitions.** [1988 c 174 § 2; 1985 c 418 § 2.] Recodified as RCW 28A.215.110 pursuant to 1990 c 33 § 4.

**28A.34A.030 Department of community development to administer program—Admission and funding.** [1988 c 174 § 3; 1985 c 418 § 3.] Recodified as RCW 28A.215.120 pursuant to 1990 c 33 § 4.

**28A.34A.032 Child abuse and neglect prevention—Department of community development to provide training.** Cross-reference section, decodified June 1990.

**28A.34A.040 Approved preschool programs—Entities eligible to conduct—Use of funds—Requirements for applicants.** [1988 c 174 § 4; 1985 c 418 § 4.] Recodified as RCW 28A.215.130 pursuant to 1990 c 33 § 4.

**28A.34A.050 Advisory committee—Composition.** [1988 c 174 § 5; 1985 c 418 § 5.] Recodified as RCW 28A.215.140 pursuant to 1990 c 33 § 4.

**28A.34A.060 Rules.** [1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6.] Recodified as RCW 28A.215.150 pursuant to 1990 c 33 § 4.

**28A.34A.070 Review of applications—Award of funds.** [1988 c 174 § 7; 1985 c 418 § 7.] Recodified as RCW 28A.215.160 pursuant to 1990 c 33 § 4.

**28A.34A.080 Governor's report.** [1988 c 174 § 8; 1985 c 418 § 8.] Recodified as RCW 28A.215.170 pursuant to 1990 c 33 § 4.

**28A.34A.090 State support—Priorities—Program funding levels.** [1987 c 518 § 102; 1985 c 418 § 9.] Recodified as RCW 28A.215.180 pursuant to 1990 c 33 § 4.

**28A.34A.100 Expenses of advisory committee—Reimbursement.** [1985 c 418 § 10.] Recodified as RCW 28A.215.190 pursuant to 1990 c 33 § 4.

**28A.34A.110 Authority to solicit gifts, grants, and support.** [1988 c 174 § 9; 1985 c 418 § 11.] Recodified as RCW 28A.215.200 pursuant to 1990 c 33 § 4.

**28A.34A.900 Contingency—Effective date—1985 c 418.** [1985 c 418 § 12.] Recodified as RCW 28A.215.904 pursuant to 1990 c 33 § 4.

**28A.34A.904 Short title—1985 c 418.** [1985 c 418 § 13.] Recodified as RCW 28A.215.900 pursuant to 1990 c 33 § 4.

**28A.34A.906 Severability—1985 c 418.** [1985 c 418 § 14.] Recodified as RCW 28A.215.906 pursuant to 1990 c 33 § 4.

**28A.34A.908 Severability—1988 c 174.** [1988 c 174 § 11.] Recodified as RCW 28A.215.908 pursuant to 1990 c 33 § 4.

#### Chapter 28A.40

##### PERMANENT COMMON SCHOOL FUND—COMMON SCHOOL CONSTRUCTION FUND

**28A.40.010 Permanent common school fund—Sources—Use.** [1969 ex.s. c 223 § 28A.40.010. Prior: 1967 c 29 § 1; 1909 c 97 p 320 § 1; RRS § 4932; prior: 1897 c 118 § 109; 1890 p 373 § 50; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1. Formerly RCW 28.40.010.] Recodified as RCW 28A.515.300 pursuant to 1990 c 33 § 4.

**28A.40.013 Permanent common school fund—Sources—Funds for support.** Cross-reference section, decodified June 1990.

**28A.40.015 Permanent common school fund—Sources—Interest accruing on from July 2nd, 1967, deposited in common school construction fund.** Cross-reference section, decodified June 1990.

**28A.40.016 Permanent common school fund—Sources—Investment of permanent common school fund.** Cross-reference section, decodified June 1990.

**28A.40.017 Permanent common school fund—Sources—Revenue in applied exclusively to common schools.** Cross-reference section, decodified June 1990.

**28A.40.018 Permanent common school fund—Sources—Apportionment from by special act forbidden.** Cross-reference section, decodified June 1990.

**28A.40.019 Permanent common school fund—Sources—Enabling act and amendments thereto as affecting.** Cross-reference section, decodified June 1990.

**28A.40.020 Certain losses to permanent common school fund or other state educational funds as funded debt against state.** [1969 ex.s. c 223 § 28A.40.020. Prior: 1909 c 97 p 321 § 2; RRS § 4933; prior: 1897 c 118 § 110, part; 1890 p 373 § 51, part. Formerly RCW 28.40.020.] Recodified as RCW 28A.515.310 pursuant to 1990 c 33 § 4.

**28A.40.021** Certain losses to permanent common school fund or other state educational funds as funded debt against state—Constitutional provision. Cross-reference section, decodified June 1990.

**28A.40.100** Common school construction fund—Sources—Use—Excess moneys in, availability, repayment. [1981 c 158 § 6; 1981 c 4 § 1; 1980 c 6 § 1; 1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28.40.100.] Recodified as RCW 28A.515.320 pursuant to 1990 c 33 § 4.

**28A.40.101** Common school construction fund—Sources—Funds for support. Cross-reference section, decodified June 1990.

#### Chapter 28A.41

### STATE GENERAL FUND SUPPORT TO PUBLIC SCHOOLS— SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

**28A.41.040** State general fund—Estimates for state support to public schools, from. [1980 c 6 § 2; 1969 ex.s. c 223 § 28A.41.040. Prior: 1945 c 141 § 11; Rem. Supp. 1945 § 4940-9. Formerly RCW 28.41.040.] Recodified as RCW 28A.300.170 pursuant to 1990 c 33 § 4.

**28A.41.050** Appropriations by legislature. [1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940-2. Formerly RCW 28.41.050.] Recodified as RCW 28A.150.380 pursuant to 1990 c 33 § 4.

**28A.41.053** Appropriations for handicapped programs. [1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11.] Recodified as RCW 28A.150.390 pursuant to 1990 c 33 § 4.

**28A.41.054** Medical assistance—Reimbursement to schools for services for handicapped children. Cross-reference section, decodified June 1990.

**28A.41.055** Apportionment factors to be based on current figures—Rules and regulations. [1972 ex.s. c 26 § 3; 1969 ex.s. c 223 § 28A.41.055. Prior: 1955 c 350 § 1. Formerly RCW 28.41.055.] Recodified as RCW 28A.150.400 pursuant to 1990 c 33 § 4.

**28A.41.110** Basic education certificated instructional staff—Definition—Ratio to students. [1987 1st ex.s. c 2 § 203.] Recodified as RCW 28A.150.100 pursuant to 1990 c 33 § 4.

**28A.41.112** Basic education certificated instructional staff—Salary allocation schedule—Limits on post-graduate credits. [1989 1st ex.s. c 16 § 1; 1987 3rd ex.s. c 1 § 4; 1987 1st ex.s. c 2 § 204.] Recodified as RCW 28A.150.410 pursuant to 1990 c 33 § 4.

**28A.41.130** Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard. [1987 1st ex.s. c 2 § 201; 1986 c 144 § 1; 1983 c 3 § 30; 1982 c 158 § 3; 1982 c 158 § 2; 1980 c 154 § 12; 1979 ex.s. c 250 § 2; 1977 ex.s. c 359 § 4; 1975 1st ex.s. c 211 § 1; 1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-5, part. Formerly RCW 28.41.130.] Recodified as RCW 28A.150.250 pursuant to 1990 c 33 § 4.

**28A.41.140** Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum contact classroom hours—Waiver. [1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28.41.140.] Recodified as RCW 28A.150.260 pursuant to 1990 c 33 § 4.

**28A.41.143** Annual basic education allocation of funds according to average FTE student enrollment—Procedure for crediting portion for school building purposes. [1985 c 7 § 89; 1980 c 154 § 13.] Recodified as RCW 28A.150.270 pursuant to 1990 c 33 § 4.

**28A.41.145** Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. [1985 c 441 § 5; 1977 ex.s. c 359 § 8; 1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Like section formerly RCW 28.41.145.] Recodified as RCW 28A.150.350 pursuant to 1990 c 33 § 4.

**28A.41.150** Adjustments to meet emergencies. [1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28.41.150.] Recodified as RCW 28A.150.360 pursuant to 1990 c 33 § 4.

**28A.41.155** Local assistance funds—Definitions—Allocation. [1987 1st ex.s. c 2 § 102.] Recodified as RCW 28A.500.010 pursuant to 1990 c 33 § 4.

**28A.41.160** Reimbursement for acquisition of approved transportation equipment—Method (as amended by 1981 c 265). [1981 c 265 § 9; 1981 c 265 § 8; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28.41.160.] Recodified as RCW 28A.150.280 pursuant to 1990 c 33 § 4.

**28A.41.160** Reimbursement for transportation costs—Method—Limitations (as amended by 1981 c 343). [1981 c 343 § 1; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28.41.160.] Recodified as RCW 28A.150.280 pursuant to 1990 c 33 § 4.

**28A.41.162** Additional programs for which legislative appropriations must or may be made. [1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7.] Recodified as RCW 28A.150.370 pursuant to 1990 c 33 § 4.

**28A.41.165** Reimbursement of school districts for traffic safety education costs. Cross-reference section, decodified June 1990.

**28A.41.170** State superintendent to make rules and regulations—Unforeseen conditions or actions to be recognized—Paperwork limited. [1981 c 285 § 1; 1979 ex.s. c 250 § 6; 1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28.41.170.] Recodified as RCW 28A.150.290 pursuant to 1990 c 33 § 4.

**28A.41.172** Reimbursement for classes provided outside regular school year. [1989 c 233 § 10.] Recodified as RCW 28A.150.420 pursuant to 1990 c 33 § 4.

**28A.41.175** Reimbursement to districts through nonpayment of local property taxes—Procedure. [1972 ex.s. c 146 § 2.] Recodified as RCW 28A.150.430 pursuant to 1990 c 33 § 4.

**28A.41.180** Reimbursement for substitute if employee serves state board or superintendent. [1973 1st ex.s. c 3 § 1.] Recodified as RCW 28A.160.220 pursuant to 1990 c 33 § 4.

**28A.41.200** School plant facilities aid—Bond issues. Cross-reference section, decodified June 1990.

**28A.41.505** Student transportation allocation—Operating costs, determination and funding. [1983 1st ex.s. c 61 § 2; 1981 c 265 § 1.] Recodified as RCW 28A.160.150 pursuant to 1990 c 33 § 4.

**28A.41.510** Student transportation allocation—Definitions. [1983 1st ex.s. c 61 § 3; 1981 c 265 § 2.] Recodified as RCW 28A.160.160 pursuant to 1990 c 33 § 4.

**28A.41.515** Student transportation allocation—District's annual report to superintendent. [1983 1st ex.s. c 61 § 4; 1981 c 265 § 3.] Recodified as RCW 28A.160.170 pursuant to 1990 c 33 § 4.

**28A.41.520** Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report. [1985 c 59 § 1; 1983 1st ex.s. c 61 § 5; 1982 1st ex.s. c 24 § 2; 1981 c 265 § 4.] Recodified as RCW 28A.160.180 pursuant to 1990 c 33 § 4.

**28A.41.525** Student transportation allocation—Notice—Revised eligible student data, when—Allocation payments, amounts, when. [1985 c 59 § 2; 1983 1st ex.s. c 61 § 6; 1982 1st ex.s. c 24 § 3; 1981 c 265 § 5.] Recodified as RCW 28A.160.190 pursuant to 1990 c 33 § 4.

**28A.41.540** Student transportation vehicle acquisition allocation—Determining vehicle categories and purchase price—Reimbursement schedule—Standards for operation and maintenance—Depreciation schedule. [1987 c 508 § 4; 1981 c 265 § 6.] Recodified as RCW 28A.160.200 pursuant to 1990 c 33 § 4.

## Chapter 28A.44

PAYMENTS TO HIGH SCHOOL DISTRICTS FOR EDUCATING  
NONHIGH SCHOOL DISTRICT STUDENTS

**28A.44.045** School district divisions—High and nonhigh. [1983 c 3 § 31; 1969 ex.s. c 223 § 28A.44.045. Prior: 1917 c 21 § 1; RRS § 4710. Formerly RCW 28.44.045, 28.01.040, part.] Recodified as RCW 28A.545.010 pursuant to 1990 c 33 § 4.

**28A.44.095** Reimbursement not a tuition charge. [1983 c 3 § 32; 1969 ex.s. c 223 § 28A.44.095. Prior: 1917 c 21 § 11; RRS § 4720. Formerly RCW 28.44.095.] Recodified as RCW 28A.545.020 pursuant to 1990 c 33 § 4.

**28A.44.150** Purposes. [1981 c 264 § 1.] Recodified as RCW 28A.545.030 pursuant to 1990 c 33 § 4.

**28A.44.160** "Student residing in a nonhigh school district" defined. [1981 c 264 § 2.] Recodified as RCW 28A.545.040 pursuant to 1990 c 33 § 4.

**28A.44.170** Amounts due from nonhigh districts. [1985 c 341 § 11; 1981 c 264 § 3.] Recodified as RCW 28A.545.050 pursuant to 1990 c 33 § 4.

**28A.44.180** Enrollment data for computation of amounts due. [1981 c 264 § 4.] Recodified as RCW 28A.545.060 pursuant to 1990 c 33 § 4.

**28A.44.190** Superintendent's annual determination of estimated amount due—Process. [1981 c 264 § 5.] Recodified as RCW 28A.545.070 pursuant to 1990 c 33 § 4.

**28A.44.200** Estimated amount due paid in May and November installments. [1981 c 264 § 6.] Recodified as RCW 28A.545.080 pursuant to 1990 c 33 § 4.

**28A.44.210** Assessing nonhigh school lesser amount—Notice of. [1981 c 264 § 7.] Recodified as RCW 28A.545.090 pursuant to 1990 c 33 § 4.

**28A.44.220** Amount due reflects cost of education and transportation of students. [1983 1st ex.s. c 61 § 7; 1981 c 264 § 8.] Recodified as RCW 28A.545.100 pursuant to 1990 c 33 § 4.

**28A.44.230** Rules to effect purposes and implement provisions. [1981 c 264 § 9.] Recodified as RCW 28A.545.110 pursuant to 1990 c 33 § 4.

**28A.44.250** Designation of high school district nonhigh students shall attend—Effect when attendance otherwise. Cross-reference section, decodified June 1990.

## Chapter 28A.46

## STATE SCHOOL EQUALIZATION FUND

**28A.46.010** Fund—Transfer of excess—Appropriations—Warrants—Earnings. [1985 c 57 § 9; 1969 ex.s. c 223 § 28A.46.010. Prior: 1959 c 264 § 1; 1937 c 226 § 1; RRS § 4934-3. Formerly RCW 28.47.010.] Recodified as RCW 28A.550.010 pursuant to 1990 c 33 § 4.

**28A.46.020** Receipt of federal funds for school purposes. Cross-reference section, decodified June 1990.

## Chapter 28A.47

## SCHOOL PLANT FACILITIES AID—BOND ISSUES

**28A.47.050** Statement of intent. [1969 ex.s. c 223 § 28A.47.050. Prior: 1947 c 278 § 1; Rem. Supp. 1947 § 4940-12. Formerly RCW 28.47.050.] Recodified as RCW 28A.525.010 pursuant to 1990 c 33 § 4.

**28A.47.060** Duties of state board of education. [1969 ex.s. c 223 § 28A.47.060. Prior: 1947 c 278 § 2; Rem. Supp. 1947 § 4940-13. Formerly RCW 28.47.060.] Recodified as RCW 28A.525.020 pursuant to 1990 c 33 § 4.

**28A.47.073** Modernization of existing school facilities. [1980 c 154 § 17; 1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW 28.47.073.] Recodified as RCW 28A.525.030 pursuant to 1990 c 33 § 4.

**28A.47.075** Portable buildings or classrooms. [1969 ex.s. c 223 § 28A.47.075. Prior: 1953 c 158 § 1. Formerly RCW 28.47.075.] Recodified as RCW 28A.525.040 pursuant to 1990 c 33 § 4.

**28A.47.080** Applications for aid—Rules and regulations—Recommendations. [1969 ex.s. c 223 § 28A.47.080. Prior: 1947 c 278 § 4; Rem. Supp. 1947 § 4940-15. Formerly RCW 28.47.080.] Recodified as RCW 28A.525.050 pursuant to 1990 c 33 § 4.

**28A.47.090** Manual—Contents—Preparation and revision. [1979 c 141 § 36; 1969 ex.s. c 223 § 28A.47.090. Prior: 1947 c 278 § 5; Rem. Supp. 1947 § 4940-16. Formerly RCW 28.47.090.] Recodified as RCW 28A.525.060 pursuant to 1990 c 33 § 4.

**28A.47.100** State superintendent to assist districts and state board. [1985 c 136 § 1; 1969 ex.s. c 223 § 28A.47.100. Prior: 1947 c 278 § 6; Rem. Supp. 1947 § 4940-17. Formerly RCW 28.47.100.] Recodified as RCW 28A.525.070 pursuant to 1990 c 33 § 4.

**28A.47.105** Vacant school plant facilities—Lease by contiguous district, when required—Eligibility for matching funds. [1987 c 112 § 1.] Recodified as RCW 28A.335.230 pursuant to 1990 c 33 § 4.

**28A.47.120** Federal grants—Rules and regulations. [1969 ex.s. c 223 § 28A.47.120. Prior: 1947 c 278 § 8; Rem. Supp. 1947 § 4940-19. Formerly RCW 28.47.120.] Recodified as RCW 28A.525.080 pursuant to 1990 c 33 § 4.

**28A.47.775** 1965 bond issue for construction of school plant facilities—Authorized—Form, terms, etc. [1969 ex.s. c 223 § 28A.47.775. Prior: 1965 ex.s. c 158 § 1. Formerly RCW 28.47.775.] Recodified as RCW 28A.525.100 pursuant to 1990 c 33 § 4.

**28A.47.776** 1965 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use. [1969 ex.s. c 223 § 28A.47.776. Prior: 1965 ex.s. c 158 § 2. Formerly RCW 28.47.776.] Recodified as RCW 28A.525.102 pursuant to 1990 c 33 § 4.

**28A.47.777** 1965 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1965—Created—Transfer and payment of funds—Prior charge against sales tax revenues. [1969 ex.s. c 223 § 28A.47.777. Prior: 1965 ex.s. c 158 § 3. Formerly RCW 28.47.777.] Recodified as RCW 28A.525.104 pursuant to 1990 c 33 § 4.

**28A.47.778** 1965 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue. [1969 ex.s. c 223 § 28A.47.778. Prior: 1965 ex.s. c 158 § 4. Formerly RCW 28.47.778.] Recodified as RCW 28A.525.106 pursuant to 1990 c 33 § 4.

**28A.47.779** 1965 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security. [1969 ex.s. c 223 § 28A.47.779. Prior: 1965 ex.s. c 158 § 5. Formerly RCW 28.47.779.] Recodified as RCW 28A.525.108 pursuant to 1990 c 33 § 4.

**28A.47.780** 1965 bond issue for construction of school plant facilities—Allotment of funds appropriated from public school building construction account—Local responsibility—Duties, rules and regulations, of state board of education. [1969 ex.s. c 223 § 28A.47.780. Prior: 1965 ex.s. c 158 § 6. Formerly RCW 28.47.780.] Recodified as RCW 28A.525.110 pursuant to 1990 c 33 § 4.

**28A.47.781** 1965 bond issue for construction of school plant facilities—Appropriations from proceeds of bonds. [1969 ex.s. c 223 § 28A.47.781. Prior: 1965 ex.s. c 158 § 7. Formerly RCW 28.47.781.] Recodified as RCW 28A.525.112 pursuant to 1990 c 33 § 4.

**28A.47.782** 1965 bond issue for construction of school plant facilities—Allocation of funds—Authorized—Conditions. [1969 ex.s. c 223 § 28A.47.782. Prior: 1965 ex.s. c 158 § 8. Formerly RCW 28.47.782.] Recodified as RCW 28A.525.114 pursuant to 1990 c 33 § 4.

**28A.47.783** 1965 bond issue for construction of school plant facilities—Referral to electorate. [1969 ex.s. c 223 § 28A.47.783. Prior: 1965 ex.s. c 158 § 9. Formerly RCW 28.47.783.] Recodified as RCW 28A.525.116 pursuant to 1990 c 33 § 4.

**28A.47.784** 1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc. [1970 ex.s. c 15 § 26; 1969 c 77 § 4; 1969 ex.s. c 223 § 28A.47.784. Prior: 1967 ex.s. c 56 § 1. Like section formerly RCW 28.47.784.] Recodified as RCW 28A.525.120 pursuant to 1990 c 33 § 4.

**28A.47.785** 1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use. [1969 ex.s. c 223 § 28A.47.785. Prior: 1967 ex.s. c 56 § 2. Formerly RCW 28.47.785.] Recodified as RCW 28A.525.122 pursuant to 1990 c 33 § 4.

**28A.47.786** 1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge. [1969 ex.s. c 223 § 28A.47.786. Prior: 1967 ex.s. c 56 § 3. Formerly RCW 28.47.786.] Recodified as RCW 28A.525.124 pursuant to 1990 c 33 § 4.

**28A.47.787** 1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. [1969 c 77 § 5; 1969 ex.s. c 223 § 28A.47.787. Prior: 1967 ex.s. c 56 § 4. Like section formerly RCW 28.47.787.] Recodified as RCW 28A.525.126 pursuant to 1990 c 33 § 4.

**28A.47.788** 1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged. [1969 c 77 § 6; 1969 ex.s. c 223 § 28A.47.788. Prior: 1967 ex.s. c 56 § 5. Like section formerly RCW 28.47.788.] Recodified as RCW 28A.525.128 pursuant to 1990 c 33 § 4.

**28A.47.789** 1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. [1969 ex.s. c 223 § 28A.47.789. Prior: 1967 ex.s. c 56 § 6. Formerly RCW 28.47.789.] Recodified as RCW 28A.525.130 pursuant to 1990 c 33 § 4.

**28A.47.790** 1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education. [1969 ex.s. c 223 § 28A.47.790. Prior: 1967 ex.s. c 56 § 7. Formerly RCW 28.47.790.] Recodified as RCW 28A.525.132 pursuant to 1990 c 33 § 4.

**28A.47.791** 1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. [1969 ex.s. c 223 § 28A.47.791. Prior: 1967 ex.s. c 56 § 8. Formerly RCW 28.47.791.] Recodified as RCW 28A.525.134 pursuant to 1990 c 33 § 4.

**28A.47.792** 1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms. [1985 ex.s. c 4 § 11; 1974 ex.s. c 108 § 1; 1971 ex.s. c 4 § 1; 1969 c 13 § 1. Formerly RCW 28.47.792.] Recodified as RCW 28A.525.140 pursuant to 1990 c 33 § 4.

**28A.47.793** 1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use. [1969 c 13 § 2. Formerly RCW 28.47.793.] Recodified as RCW 28A.525.142 pursuant to 1990 c 33 § 4.

**28A.47.794** 1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source of payment of—Pledge. [1974 ex.s. c 108 § 2; 1969 c 13 § 3. Formerly RCW 28.47.794.] Recodified as RCW 28A.525.145 pursuant to 1990 c 33 § 4.

**28A.47.795** 1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. [1971 ex.s. c 4 § 2; 1969 c 13 § 4. Formerly RCW 28.47.795.] Recodified as RCW 28A.525.146 pursuant to 1990 c 33 § 4.

**28A.47.796** 1969 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue. [1974 ex.s. c 108 § 3; 1971 ex.s. c 4 § 3; 1969 c 13 § 5. Formerly RCW 28.47.796.] Recodified as RCW 28A.525.148 pursuant to 1990 c 33 § 4.

**28A.47.797** 1969 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. [1969 c 13 § 6. Formerly RCW 28.47.797.] Recodified as RCW 28A.525.150 pursuant to 1990 c 33 § 4.

**28A.47.798** 1969 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of state board of education. [1969 c 13 § 7. Formerly RCW 28.47.798.] Recodified as RCW 28A.525.152 pursuant to 1990 c 33 § 4.

**28A.47.799** 1969 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. [1969 c 13 § 8. Formerly RCW 28.47.799.] Recodified as RCW 28A.525.154 pursuant to 1990 c 33 § 4.

**28A.47.7991** Bonds authorized under RCW 28A.47.784 through 28A.47.799 may be refunded—Security. [1974 ex.s. c 108 § 4.] Recodified as RCW 28A.525.756 pursuant to 1990 c 33 § 4.

**28A.47.7992** Rescinding authority to issue balance of bonds authorized under RCW 28A.47.792 through 28A.47.799. [1979 ex.s. c 241 § 13.] Recodified as RCW 28A.525.158 pursuant to 1990 c 33 § 4.

**28A.47.800** 1969 appropriation for construction, modernization of school plant facilities. [1969 ex.s. c 244 § 1. Formerly RCW 28.47.800.] Recodified as RCW 28A.525.160 pursuant to 1990 c 33 § 4.

**28A.47.801** Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules. [1989 c 321 § 1; 1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28.47.801.] Recodified as RCW 28A.525.162 pursuant to 1990 c 33 § 4.

**28A.47.802** Allotment of appropriations for school plant facilities—Duties of board. [1989 c 321 § 2; 1974 ex.s. c 56 § 2; 1969 ex.s. c 244 § 3. Formerly RCW 28.47.802.] Recodified as RCW 28A.525.164 pursuant to 1990 c 33 § 4.

**28A.47.803** Allotment of appropriations for school plant facilities—Basis of state aid for school plant. [1989 c 321 § 3; 1975 1st ex.s. c 98 § 1; 1974 ex.s. c 56 § 3; 1969 ex.s. c 244 § 4. Formerly RCW 28.47.803.] Recodified as RCW 28A.525.166 pursuant to 1990 c 33 § 4.

**28A.47.804** Allotment of appropriations for school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility. [1969 ex.s. c 244 § 5. Formerly RCW 28.47.804.] Recodified as RCW 28A.525.168 pursuant to 1990 c 33 § 4.

**28A.47.805** Allotment of appropriations for school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. [1974 ex.s. c 56 § 4; 1969 ex.s. c 244 § 6. Formerly RCW 28.47.805.] Recodified as RCW 28A.525.170 pursuant to 1990 c 33 § 4.

**28A.47.806** Allotment of appropriations for school plant facilities—Application by district for state assistance—Studies and surveys by state board. [1969 ex.s. c 244 § 7. Formerly RCW 28.47.806.] Recodified as RCW 28A.525.172 pursuant to 1990 c 33 § 4.

**28A.47.807** Allotment of appropriations for school plant facilities—Manual, other materials to guide and provide information to district. [1979 c 141 § 39; 1974 ex.s. c 56 § 5; 1969 ex.s. c 244 § 8. Formerly RCW 28.47.807.] Recodified as RCW 28A.525.174 pursuant to 1990 c 33 § 4.

**28A.47.808** Allotment of appropriations for school plant facilities—State board to provide district with consultatory, advisory service. [1974 ex.s. c 56 § 6; 1969 ex.s. c 244 § 9. Formerly RCW 28.47.808.] Recodified as RCW 28A.525.176 pursuant to 1990 c 33 § 4.

**28A.47.809** Allotment of appropriations for school plant facilities—Modifiable basic or standard plans for school buildings. [1974 ex.s. c 56 § 7; 1969 ex.s. c 244 § 10. Formerly RCW 28.47.809.] Recodified as RCW 28A.525.178 pursuant to 1990 c 33 § 4.

**28A.47.810** Allotment of appropriations for school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas. [1974 ex.s. c 56 § 8; 1969 ex.s. c 244 § 11. Formerly RCW 28.47.810.] Recodified as RCW 28A.525.180 pursuant to 1990 c 33 § 4.

**28A.47.811** Allotment of appropriations for school plant facilities—Permissible allocations. [1969 ex.s. c 244 § 12. Formerly RCW 28.47.811.] Recodified as RCW 28A.525.182 pursuant to 1990 c 33 § 4.

**28A.47.820 Board limited when prioritizes construction.** [1975 1st ex.s. c 98 § 2.] Recodified as RCW 28A.525.190 pursuant to 1990 c 33 § 4.

**28A.47.830 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.** [1985 c 136 § 2; 1977 ex.s. c 227 § 1.] Recodified as RCW 28A.525.200 pursuant to 1990 c 33 § 4.

**28A.47.840 1984 bond issue for construction, modernization of school plant facilities—Intent.** [1984 c 266 § 1.] Recodified as RCW 28A.525.210 pursuant to 1990 c 33 § 4.

**28A.47.841 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale.** [1985 ex.s. c 3 § 1; 1984 c 266 § 2.] Recodified as RCW 28A.525.212 pursuant to 1990 c 33 § 4.

**28A.47.842 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use.** [1984 c 266 § 3.] Recodified as RCW 28A.525.214 pursuant to 1990 c 33 § 4.

**28A.47.843 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education.** [1984 c 266 § 4.] Recodified as RCW 28A.525.216 pursuant to 1990 c 33 § 4.

**28A.47.844 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds.** [1985 ex.s. c 3 § 2; 1984 c 266 § 5.] Recodified as RCW 28A.525.218 pursuant to 1990 c 33 § 4.

**28A.47.845 1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment.** [1984 c 266 § 6.] Recodified as RCW 28A.525.220 pursuant to 1990 c 33 § 4.

**28A.47.846 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds.** [1984 c 266 § 7.] Recodified as RCW 28A.525.222 pursuant to 1990 c 33 § 4.

#### Chapter 28A.47B

#### SCHOOL PLANT FACILITIES AID—1980 BOND ISSUE FOR CONSTRUCTION OF COMMON SCHOOL PLANT FACILITIES

**28A.47B.010 Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions.** [1985 ex.s. c 4 § 12; 1980 c 141 § 1.] Recodified as RCW 28A.525.230 pursuant to 1990 c 33 § 4.

**28A.47B.020 Bond anticipation notes—Authorized—Payment.** [1980 c 141 § 2.] Recodified as RCW 28A.525.240 pursuant to 1990 c 33 § 4.

**28A.47B.030 Form, terms, conditions, sale and covenants of bonds and notes.** [1980 c 141 § 3.] Recodified as RCW 28A.525.250 pursuant to 1990 c 33 § 4.

**28A.47B.040 Disposition of proceeds from sale of bonds and notes—Use.** [1980 c 141 § 4.] Recodified as RCW 28A.525.260 pursuant to 1990 c 33 § 4.

**28A.47B.050 State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure.** [1980 c 141 § 5.] Recodified as RCW 28A.525.270 pursuant to 1990 c 33 § 4.

**28A.47B.060 Bonds as legal investment for public funds.** [1980 c 141 § 6.] Recodified as RCW 28A.525.280 pursuant to 1990 c 33 § 4.

**28A.47B.070 Chapter provisions as limited by other statutes, covenants and proceedings.** [1980 c 141 § 7.] Recodified as RCW 28A.525.290 pursuant to 1990 c 33 § 4.

**28A.47B.080 Proceeds from sale of bonds as compensation for sale of timber from trust lands.** [1980 c 141 § 8.] Recodified as RCW 28A.525.300 pursuant to 1990 c 33 § 4.

#### Chapter 28A.48

#### APPORTIONMENT TO DISTRICTS—DISTRICT ACCOUNTING

**28A.48.010 By state superintendent.** [1982 c 136 § 1; 1981 c 282 § 1; 1981 c 5 § 32; 1980 c 6 § 5; 1979 ex.s. c 237 § 1; 1975-'76 2nd ex.s.

c 118 § 27; 1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28.48.010.] Recodified as RCW 28A.510.250 pursuant to 1990 c 33 § 4.

**28A.48.030 Distribution by ESD superintendent.** [1983 c 56 § 5; 1975 1st ex.s. c 275 § 68; 1969 ex.s. c 176 § 109; 1969 ex.s. c 223 § 28A.48.030. Prior: 1965 ex.s. c 162 § 2; 1945 c 141 § 9; Rem. Supp. 1945 § 4940-8. Formerly RCW 28.48.030.] Recodified as RCW 28A.510.260 pursuant to 1990 c 33 § 4.

**28A.48.055 Private schools must report attendance.** [1975 1st ex.s. c 275 § 70; 1969 ex.s. c 176 § 111; 1969 ex.s. c 223 § 28A.48.055. Prior: 1933 c 28 § 14; 1913 c 158 § 1; 1909 c 97 p 313 § 6; RRS § 4876. Formerly RCW 28.48.055; 28.27.020.] Recodified as RCW 28A.195.060 pursuant to 1990 c 33 § 4.

**28A.48.080 Apportionment in joint districts.** Cross-reference section, decodified June 1990.

**28A.48.100 County treasurer's duties.** [1975-'76 2nd ex.s. c 118 § 28; 1975 1st ex.s. c 275 § 73; 1969 ex.s. c 176 § 114; 1969 ex.s. c 223 § 28A.48.100. Prior: 1911 c 85 § 1; 1909 c 97 p 309 § 1; RRS § 4867; prior: 1907 c 240 § 8; 1897 c 118 § 59; 1893 c 109 § 8; 1891 c 127 § 27; 1890 p 380 § 71; 1886 p 26 § 83; Code 1881 § 3236. Formerly RCW 28.48.100.] Recodified as RCW 28A.510.270 pursuant to 1990 c 33 § 4.

**28A.48.200 Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit.** Cross-reference section, decodified June 1990.

#### Chapter 28A.51

#### DISTRICT BONDS FOR LANDS, BUILDINGS AND EQUIPMENT

**28A.51.010 Directors may borrow money, issue bonds.** [1984 c 186 § 10; 1983 c 167 § 21; 1980 c 170 § 1; 1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28.51.010, 28.51.050, part.] Recodified as RCW 28A.530.010 pursuant to 1990 c 33 § 4.

**28A.51.020 Bond issuance—Election.** [1984 c 186 § 11; 1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28.51.020, 28.51.050, part.] Recodified as RCW 28A.530.020 pursuant to 1990 c 33 § 4.

**28A.51.070 Disposition of bond proceeds—Capital projects fund.** [1984 c 186 § 12; 1983 c 167 § 24; 1979 ex.s. c 257 § 1; 1969 ex.s. c 223 § 28A.51.070. Prior: 1911 c 88 § 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28.51.070, 28.51.080, 28.51.090, 28.51.100 and 28.51.110.] Recodified as RCW 28A.530.030 pursuant to 1990 c 33 § 4.

**28A.51.180 Refunding former issues without vote of the people.** [1984 c 186 § 13; 1983 c 167 § 25; 1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28.51.180.] Recodified as RCW 28A.530.040 pursuant to 1990 c 33 § 4.

**28A.51.190 Holder to notify treasurer—Redemption.** [1983 c 167 § 26; 1969 ex.s. c 223 § 28A.51.190. Prior: 1909 c 97 p 330 § 13; RRS § 4953; prior: 1897 c 118 § 125; 1890 p 49 § 9. Formerly RCW 28.51.190.] Recodified as RCW 28A.530.050 pursuant to 1990 c 33 § 4.

**28A.51.200 Expense of county treasurer.** [1969 ex.s. c 223 § 28A.51.200. Prior: 1909 c 97 p 330 § 14; RRS § 4954; prior: 1897 c 118 § 126; 1890 p 50 § 10. Formerly RCW 28.51.200.] Recodified as RCW 28A.530.060 pursuant to 1990 c 33 § 4.

**28A.51.220 Exchange of warrants for bonds.** [1983 c 167 § 27; 1969 ex.s. c 223 § 28A.51.220. Prior: 1909 c 97 p 327 § 5; RRS § 4945. Formerly RCW 28.51.220.] Recodified as RCW 28A.530.070 pursuant to 1990 c 33 § 4.

## Chapter 28A.52

## VALIDATING INDEBTEDNESS—BONDS

**28A.52.010 Authority to validate indebtedness.** [1969 ex.s. c 223 § 28A.52.010. Prior: 1909 c 97 p 331 § 1; RRS § 4956. Prior: 1897 c 118 § 128; 1895 c 21 § 1. Formerly RCW 28.52.010.] Recodified as RCW 28A.535.010 pursuant to 1990 c 33 § 4.

**28A.52.020 Resolution providing for election—Vote required to validate.** [1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28.52.020.] Recodified as RCW 28A.535.020 pursuant to 1990 c 33 § 4.

**28A.52.030 Notice of election.** [1969 ex.s. c 223 § 28A.52.030. Prior: 1909 c 97 p 332 § 3; RRS § 4958; prior: 1897 c 118 § 131; 1895 c 21 § 4. Formerly RCW 28.52.030.] Recodified as RCW 28A.535.030 pursuant to 1990 c 33 § 4.

**28A.52.040 Manner and result of election.** [1969 ex.s. c 223 § 28A.52.040. Prior: 1909 c 97 p 332 § 4; RRS § 4959; prior: 1897 c 118 § 130; 1895 c 21 § 3. Formerly RCW 28.52.040.] Recodified as RCW 28A.535.040 pursuant to 1990 c 33 § 4.

**28A.52.050 Authority to borrow, issue bonds.** [1984 c 186 § 14; 1983 c 167 § 28; 1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28.52.050.] Recodified as RCW 28A.535.050 pursuant to 1990 c 33 § 4.

**28A.52.060 Exchange of warrants for bonds.** [1983 c 167 § 30; 1969 ex.s. c 223 § 28A.52.060. Prior: 1909 c 97 p 334 § 7; RRS § 4962; prior: 1897 c 118 § 134; 1895 c 21 § 7. Formerly RCW 28.52.060.] Recodified as RCW 28A.535.060 pursuant to 1990 c 33 § 4.

**28A.52.070 Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues.** [1985 c 7 § 90; 1969 ex.s. c 223 § 28A.52.070. Prior: 1909 c 97 p 335 § 8; RRS § 4963; prior: 1897 c 118 § 135; 1895 c 21 § 8. Formerly RCW 28.52.070.] Recodified as RCW 28A.535.070 pursuant to 1990 c 33 § 4.

**28A.52.080 Validating indebtedness proceedings after merger.** [1969 ex.s. c 223 § 28A.52.080. Prior: 1913 c 136 § 1; RRS § 4964. Formerly RCW 28.52.080.] Recodified as RCW 28A.535.080 pursuant to 1990 c 33 § 4.

## Chapter 28A.56

## CAPITAL FUND AID BY NONHIGH DISTRICTS

**28A.56.005 High school facilities defined.** [1985 c 385 § 31; 1969 ex.s. c 223 § 28A.56.005. Prior: 1959 c 262 § 2. Formerly RCW 28.56.005.] Recodified as RCW 28A.540.010 pursuant to 1990 c 33 § 4.

**28A.56.010 Plan for nonhigh district to provide capital funds in aid of high school district.** [1985 c 385 § 32; 1969 ex.s. c 223 § 28A.56.010. Prior: 1959 c 262 § 1; 1955 c 344 § 1; 1953 c 229 § 1. Formerly RCW 28.56.010.] Recodified as RCW 28A.540.020 pursuant to 1990 c 33 § 4.

**28A.56.020 Factors to be considered in preparation of plan.** [1985 c 385 § 33; 1985 c 7 § 91; 1969 ex.s. c 223 § 28A.56.020. Prior: 1959 c 262 § 3; 1955 c 344 § 2; 1953 c 229 § 2. Formerly RCW 28.56.020.] Recodified as RCW 28A.540.030 pursuant to 1990 c 33 § 4.

**28A.56.030 Public hearing—Notice.** [1985 c 385 § 34; 1975 1st ex.s. c 275 § 74; 1971 c 48 § 21; 1969 ex.s. c 223 § 28A.56.030. Prior: 1959 c 262 § 4; 1955 c 344 § 3; 1953 c 229 § 3. Formerly RCW 28.56.030.] Recodified as RCW 28A.540.040 pursuant to 1990 c 33 § 4.

**28A.56.040 Review by state board—Approval—Revised plan.** [1985 c 385 § 35; 1975 1st ex.s. c 275 § 75; 1971 c 48 § 22; 1969 ex.s. c 223 § 28A.56.040. Prior: 1959 c 262 § 5; 1955 c 344 § 4; 1953 c 229 § 4. Formerly RCW 28.56.040.] Recodified as RCW 28A.540.050 pursuant to 1990 c 33 § 4.

**28A.56.050 Bond, excess levy, elections—Use of proceeds.** [1985 c 7 § 92; 1975 1st ex.s. c 275 § 76; 1971 c 48 § 23; 1969 ex.s. c 223 § 28A.56.050. Prior: 1959 c 262 § 6; 1955 c 344 § 5; 1953 c 229 § 5.

Formerly RCW 28.56.050.] Recodified as RCW 28A.540.060 pursuant to 1990 c 33 § 4.

**28A.56.060 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal.** [1985 c 385 § 36; 1975 1st ex.s. c 275 § 77; 1971 c 48 § 24; 1969 ex.s. c 223 § 28A.56.060. Prior: 1959 c 262 § 7; 1955 c 344 § 6; 1953 c 229 § 6. Formerly RCW 28.56.060.] Recodified as RCW 28A.540.070 pursuant to 1990 c 33 § 4.

**28A.56.070 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure.** [1985 c 385 § 37; 1969 ex.s. c 223 § 28A.56.070. Prior: 1959 c 262 § 8; 1955 c 344 § 7; 1953 c 229 § 7. Formerly RCW 28.56.070.] Recodified as RCW 28A.540.080 pursuant to 1990 c 33 § 4.

**28A.56.075 Nonhigh districts, time of levy and issuance of bonds.** [1969 ex.s. c 223 § 28A.56.075. Prior: 1959 c 262 § 9. Formerly RCW 28.56.075.] Recodified as RCW 28A.540.090 pursuant to 1990 c 33 § 4.

**28A.56.170 Validation of proceedings under 1955 act, when.** [1969 ex.s. c 223 § 28A.56.170. Prior: 1959 c 262 § 11. Formerly RCW 28.56.170.] Recodified as RCW 28A.540.100 pursuant to 1990 c 33 § 4.

**28A.56.200 Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise.** [1989 c 321 § 4; 1981 c 239 § 1.] Recodified as RCW 28A.540.110 pursuant to 1990 c 33 § 4.

## Chapter 28A.57

## ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

**28A.57.010 Purpose.** [1969 ex.s. c 223 § 28A.57.010. Prior: 1947 c 266 § 1; Rem. Supp. 1947 § 4693–20; prior: 1941 c 248 § 1; Rem. Supp. 1941 § 4709–1. Formerly RCW 28.57.010.] Recodified as RCW 28A.315.010 pursuant to 1990 c 33 § 4.

**28A.57.020 Definitions.** [1985 c 385 § 1; 1983 c 3 § 33; 1975 1st ex.s. c 275 § 78; 1971 c 48 § 25; 1969 ex.s. c 223 § 28A.57.020. Prior: 1955 c 395 § 1; 1947 c 266 § 2; Rem. Supp. 1947 § 4693–21. Formerly RCW 28.57.020.] Recodified as RCW 28A.315.020 pursuant to 1990 c 33 § 4.

**28A.57.029 County committee members to act as temporary regional committee members—Election of initial regional committee.** [1985 c 385 § 30.] Recodified as RCW 28A.315.030 pursuant to 1990 c 33 § 4.

**28A.57.030 Regional committees—Created.** [1985 c 385 § 2; 1969 ex.s. c 223 § 28A.57.030. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693–30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709–3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.040 pursuant to 1990 c 33 § 4.

**28A.57.031 Regional committees—Membership limitation.** [1985 c 385 § 3; 1975 1st ex.s. c 275 § 79; 1969 ex.s. c 176 § 115; 1969 ex.s. c 223 § 28A.57.031. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693–30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709–3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.050 pursuant to 1990 c 33 § 4.

**28A.57.032 Regional committees—Election of members—Qualifications.** [1985 c 385 § 4; 1975–76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032; prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693–30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709–3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.060 pursuant to 1990 c 33 § 4.

**28A.57.033 Regional committees—Vacancies, filling of.** [1985 c 385 § 5; 1975 1st ex.s. c 275 § 81; 1969 ex.s. c 176 § 117; 1969 ex.s. c 223 § 28A.57.033. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693–30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709–3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.070 pursuant to 1990 c 33 § 4.

**28A.57.034 Regional committees—Terms of members.** [1985 c 385 § 6; 1969 ex.s. c 223 § 28A.57.034. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693–30, part; prior: 1941 c 248 § 3, part; Rem. Supp.

1941 § 4709-3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.080 pursuant to 1990 c 33 § 4.

**28A.57.035 Regional committees—Members' expenses reimbursed.** [1985 c 385 § 7; 1969 ex.s. c 176 § 118; 1969 ex.s. c 223 § 28A.57.035. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28.57.030, part.] Recodified as RCW 28A.315.090 pursuant to 1990 c 33 § 4.

**28A.57.040 Regional committees—Organization, meetings, quorum.** [1985 c 385 § 8; 1975 1st ex.s. c 275 § 82; 1969 ex.s. c 176 § 119; 1969 ex.s. c 223 § 28A.57.040. Prior: 1947 c 266 § 12; Rem. Supp. 1947 § 4693-31; prior: 1941 c 248 § 4; Rem. Supp. 1941 § 4709-4. Formerly RCW 28.57.040.] Recodified as RCW 28A.315.100 pursuant to 1990 c 33 § 4.

**28A.57.050 Regional committees—Powers and duties.** [1987 c 100 § 1; 1985 c 385 § 9; 1985 c 6 § 1; 1975-'76 2nd ex.s. c 15 § 2. Prior: 1975 1st ex.s. c 275 § 83; 1975 c 43 § 4; 1969 ex.s. c 176 § 120; 1969 ex.s. c 223 § 28A.57.050; prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28.57.050, part.] Recodified as RCW 28A.315.110 pursuant to 1990 c 33 § 4.

**28A.57.055 Regional committees—Recommendations—Standards.** [1985 c 385 § 10; 1969 ex.s. c 223 § 28A.57.055. Prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28.57.050, part.] Recodified as RCW 28A.315.120 pursuant to 1990 c 33 § 4.

**28A.57.057 Changing conflicting or incorrectly described school district boundaries.** [1985 c 385 § 11; 1971 ex.s. c 282 § 26.] Recodified as RCW 28A.315.130 pursuant to 1990 c 33 § 4.

**28A.57.060 Powers and duties of state board, generally.** [1987 c 100 § 2; 1985 c 385 § 12; 1969 ex.s. c 223 § 28A.57.060. Prior: 1955 c 395 § 3; 1947 c 266 § 14; Rem. Supp. 1947 § 4693-33; prior: 1941 c 248 § 8; Rem. Supp. 1941 § 4709-8. Formerly RCW 28.57.060.] Recodified as RCW 28A.315.140 pursuant to 1990 c 33 § 4.

**28A.57.070 Action upon board's report.** [1985 c 385 § 13; 1975 1st ex.s. c 275 § 84; 1969 ex.s. c 176 § 121; 1969 ex.s. c 223 § 28A.57.070. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28.57.070, part.] Recodified as RCW 28A.315.150 pursuant to 1990 c 33 § 4.

**28A.57.075 Adjustment of bonded indebtedness—Special election in certain cases.** [1985 c 385 § 14; 1975 1st ex.s. c 275 § 85; 1969 ex.s. c 176 § 122; 1969 ex.s. c 223 § 28A.57.075. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28.57.070, part.] Recodified as RCW 28A.315.160 pursuant to 1990 c 33 § 4.

**28A.57.080 Notice of election—Contents.** [1985 c 385 § 15; 1975 1st ex.s. c 275 § 86; 1971 c 48 § 26; 1969 ex.s. c 223 § 28A.57.080. Prior: 1947 c 266 § 20; Rem. Supp. 1947 § 4693-39. Formerly RCW 28.57.080.] Recodified as RCW 28A.315.170 pursuant to 1990 c 33 § 4.

**28A.57.090 Vote, how determined—ESD superintendent's order—Certification—Effective date.** [1985 c 385 § 16; 1975 1st ex.s. c 275 § 87; 1969 ex.s. c 176 § 123; 1969 ex.s. c 223 § 28A.57.090. Prior: 1957 c 296 § 1; 1955 c 395 § 5; 1947 c 266 § 21; Rem. Supp. 1947 § 4693-40. Formerly RCW 28.57.090.] Recodified as RCW 28A.315.180 pursuant to 1990 c 33 § 4.

**28A.57.100 Procedure upon rejection of proposal.** [1985 c 385 § 17; 1969 ex.s. c 223 § 28A.57.100. Prior: 1947 c 266 § 22; Rem. Supp. 1947 § 4693-41. Formerly RCW 28.57.100.] Recodified as RCW 28A.315.190 pursuant to 1990 c 33 § 4.

**28A.57.110 Personnel and supplies to be furnished by state superintendent—Expenses reimbursed.** [1985 c 385 § 18; 1969 ex.s. c 223 § 28A.57.110. Prior: 1947 c 266 § 39; Rem. Supp. 1947 § 4693-58. Formerly RCW 28.57.110.] Recodified as RCW 28A.315.200 pursuant to 1990 c 33 § 4.

**28A.57.120 Appeal.** [1983 c 3 § 34; 1969 ex.s. c 223 § 28A.57.120. Prior: 1947 c 266 § 40; Rem. Supp. 1947 § 4693-59. Formerly RCW 28.57.120.] Recodified as RCW 28A.315.210 pursuant to 1990 c 33 § 4.

**28A.57.130 Organization of school districts.** [1975 1st ex.s. c 275 § 88; 1969 ex.s. c 176 § 124; 1969 ex.s. c 223 § 28A.57.130. Prior: 1947 c 266 § 3; Rem. Supp. 1947 § 4693-22. Formerly RCW 28.57.130.] Recodified as RCW 28A.315.220 pursuant to 1990 c 33 § 4.

**28A.57.140 Classes of districts—Change of classification.** [1975-'76 2nd ex.s. c 15 § 3. Prior: 1975 1st ex.s. c 275 § 89; 1975 c 43 § 1; 1969 ex.s. c 176 § 125; 1969 ex.s. c 223 § 28A.57.140; prior: 1947 c 266 § 9; Rem. Supp. 1947 § 4693-28; prior: 1909 p 264 §§ 2, 3, 4; RRS §§ 4695, 4696, 4697. Formerly RCW 28.57.140.] Recodified as RCW 28A.315.230 pursuant to 1990 c 33 § 4.

**28A.57.145 Classes of districts—Change of classification—Delay of authorized.** [1975 c 43 § 35.] Recodified as RCW 28A.315.240 pursuant to 1990 c 33 § 4.

**28A.57.150 City or town districts.** [1985 c 385 § 19; 1975 1st ex.s. c 275 § 90; 1969 ex.s. c 176 § 126; 1969 ex.s. c 223 § 28A.57.150. Prior: 1965 ex.s. c 108 § 1; 1963 c 208 § 1; 1953 c 49 § 1; 1947 c 266 § 5; Rem. Supp. 1947 § 4693-24; prior: 1909 c 97 p 265 § 3; RRS § 4703. Formerly RCW 28.57.150.] Recodified as RCW 28A.315.250 pursuant to 1990 c 33 § 4.

**28A.57.160 Reorganization of districts by transfer of territory or annexation.** [1969 ex.s. c 223 § 28A.57.160. Prior: 1947 c 266 § 4; Rem. Supp. 1947 § 4693-23. Formerly RCW 28.57.160.] Recodified as RCW 28A.315.260 pursuant to 1990 c 33 § 4.

**28A.57.170 Petition for reorganization—Conditions.** [1985 c 385 § 20; 1982 c 191 § 1; 1975 1st ex.s. c 275 § 91; 1969 ex.s. c 176 § 127; 1969 ex.s. c 223 § 28A.57.170. Prior: 1947 c 266 § 15; Rem. Supp. 1947 § 4693-34; prior: 1909 c 97 p 266 § 1; RRS § 4721; prior: 1899 c 14 § 1; 1897 c 118 § 4; 1891 c 127 § 7; 1890 p 361 § 19. Formerly RCW 28.57.170.] Recodified as RCW 28A.315.270 pursuant to 1990 c 33 § 4.

**28A.57.180 Transfer of territory—By petition—By ESD superintendent—When election required.** [1985 c 385 § 21; 1975 1st ex.s. c 275 § 92; 1969 ex.s. c 176 § 128; 1969 ex.s. c 223 § 28A.57.180. Prior: 1959 c 268 § 14; 1947 c 266 § 16; Rem. Supp. 1947 § 4693-35; prior: 1915 c 50 § 1; RRS § 4727. Formerly RCW 28.57.180.] Recodified as RCW 28A.315.280 pursuant to 1990 c 33 § 4.

**28A.57.190 Annexation of district bounded on three sides by high school district.** [1985 c 385 § 22; 1975 1st ex.s. c 275 § 93; 1969 ex.s. c 176 § 129; 1969 ex.s. c 223 § 28A.57.190. Prior: 1947 c 266 § 17; Rem. Supp. 1947 § 4693-36. Formerly RCW 28.57.190.] Recodified as RCW 28A.315.290 pursuant to 1990 c 33 § 4.

**28A.57.195 Single school district for certain United States military reservations—Mandated.** [1972 ex.s. c 63 § 1.] Recodified as RCW 28A.315.300 pursuant to 1990 c 33 § 4.

**28A.57.196 Single school district for certain United States military reservations—Procedure—Limitations.** [1985 c 385 § 23; 1972 ex.s. c 63 § 2.] Recodified as RCW 28A.315.310 pursuant to 1990 c 33 § 4.

**28A.57.200 Dissolution and annexation of certain districts—Annexation of nondistrict property.** [1985 c 385 § 24; 1975-'76 2nd ex.s. c 15 § 4. Prior: 1975 1st ex.s. c 275 § 94; 1975 1st ex.s. c 23 § 1; 1970 ex.s. c 86 § 4; 1969 ex.s. c 176 § 130; 1969 ex.s. c 223 § 28A.57.200; prior: 1947 c 266 § 18; Rem. Supp. 1947 § 4693-37. Formerly RCW 28.57.200.] Recodified as RCW 28A.315.320 pursuant to 1990 c 33 § 4.

**28A.57.210 Adjustment of indebtedness—Basis.** [1969 ex.s. c 223 § 28A.57.210. Prior: 1947 c 266 § 7; Rem. Supp. 1947 § 4693-26. Formerly RCW 28.57.210.] Recodified as RCW 28A.315.330 pursuant to 1990 c 33 § 4.

**28A.57.220 Corporate existence retained to pay bonded indebtedness—Tax levies—Joint school districts.** [1969 ex.s. c 223 § 28A.57.220. Prior: 1947 c 266 § 8; Rem. Supp. 1947 § 4693-27. Formerly RCW 28.57.220.] Recodified as RCW 28A.315.340 pursuant to 1990 c 33 § 4.

**28A.57.230 Joint school districts—Defined—Designation.** [1973 c 47 § 1; 1969 ex.s. c 223 § 28A.57.230. Prior: 1947 c 266 § 25; Rem. Supp. 1947 § 4693-44; prior: 1909 c 97 p 264 § 6; RRS § 4699; prior: 1897 c 118 § 13. Formerly RCW 28.57.230.] Recodified as RCW 28A.315.350 pursuant to 1990 c 33 § 4.

**28A.57.240 School districts in two or more educational service districts—Change or adjustment of districts—Procedure generally.** [1985 c 385 § 25; 1975 1st ex.s. c 275 § 95; 1973 c 47 § 2; 1969 ex.s. c 176 § 131; 1969 ex.s. c 223 § 28A.57.240. Prior: 1947 c 266 § 26; Rem. Supp. 1947 § 4693-45. Formerly RCW 28.57.240.] Recodified as RCW 28A.315.360 pursuant to 1990 c 33 § 4.

**28A.57.245 School districts in two or more educational service districts—Proposed change or adjustment—Procedure when one committee does not approve, or fails to act—Temporary committee.** [1985 c 385 § 26; 1975 1st ex.s. c 275 § 96; 1969 ex.s. c 176 § 132; 1969 ex.s. c 223 § 28A.57.245. Prior: 1959 c 268 § 5. Formerly RCW 28.57.245.] Recodified as RCW 28A.315.370 pursuant to 1990 c 33 § 4.

**28A.57.250 Joint school districts—Administration—County to which joint school district considered as belonging.** [1973 c 47 § 3; 1969 ex.s. c 223 § 28A.57.250. Prior: 1947 c 266 § 27; Rem. Supp. 1947 § 4693-46. Formerly RCW 28.57.250.] Recodified as RCW 28A.315.380 pursuant to 1990 c 33 § 4.

**28A.57.255 Joint school districts—Special rules for electors voting for directors.** [1983 c 56 § 6; 1975 1st ex.s. c 275 § 97; 1973 c 47 § 4; 1969 ex.s. c 176 § 133; 1969 ex.s. c 223 § 28A.57.255. Prior: 1961 c 130 § 23. Formerly RCW 28.57.255.] Recodified as RCW 28A.315.390 pursuant to 1990 c 33 § 4.

**28A.57.260 Joint school districts—Directors—Vacancies.** [1973 c 47 § 5; 1971 c 53 § 3; 1969 ex.s. c 176 § 134; 1969 ex.s. c 223 § 28A.57.260. Prior: 1947 c 266 § 28; Rem. Supp. 1947 § 4693-47. Formerly RCW 28.57.260.] Recodified as RCW 28A.315.400 pursuant to 1990 c 33 § 4.

**28A.57.270 Joint school districts—Powers and duties.** [1969 ex.s. c 223 § 28A.57.270. Prior: 1947 c 266 § 29; Rem. Supp. 1947 § 4693-48. Formerly RCW 28.57.270.] Recodified as RCW 28A.315.410 pursuant to 1990 c 33 § 4.

**28A.57.280 Joint school districts—Assessed valuation of district property to be certified.** [1969 ex.s. c 223 § 28A.57.280. Prior: 1947 c 266 § 30; Rem. Supp. 1947 § 4693-49; prior: 1927 c 286 § 1; 1925 ex.s. c 77 § 8; RRS § 4753-8. Formerly RCW 28.57.280.] Recodified as RCW 28A.315.420 pursuant to 1990 c 33 § 4.

**28A.57.290 Joint school districts—Levy of tax—Ratio.** [1983 c 56 § 7; 1975 1st ex.s. c 275 § 98; 1969 ex.s. c 176 § 135; 1969 ex.s. c 223 § 28A.57.290. Prior: 1947 c 266 § 31; Rem. Supp. 1947 § 4693-50; prior: (i) 1925 ex.s. c 77 § 10; RRS § 4753-10. (ii) 1927 c 286 § 2; RRS § 4753-11. Formerly RCW 28.57.290.] Recodified as RCW 28A.315.430 pursuant to 1990 c 33 § 4.

**28A.57.300 Joint school districts—Levy of tax—Remittance of collections to district treasurer.** [1975 1st ex.s. c 275 § 99; 1969 ex.s. c 176 § 136; 1969 ex.s. c 223 § 28A.57.300. Prior: 1947 c 266 § 32; Rem. Supp. 1947 § 4693-51. Formerly RCW 28.57.300.] Recodified as RCW 28A.315.440 pursuant to 1990 c 33 § 4.

**28A.57.312 Directors—Elections—Terms—Number.** [1980 c 35 § 1; 1980 c 47 § 1. Prior: 1979 ex.s. c 183 § 1; 1979 ex.s. c 126 § 4; 1975 c 43 § 5; 1973 2nd ex.s. c 21 § 1; 1969 c 131 § 8; 1969 ex.s. c 223 § 28A.57.312; prior: 1957 c 67 § 1; 1955 c 55 § 11; 1947 c 266 § 10; Rem. Supp. 1947 § 4693-29; prior: 1909 pp 289, 290 §§ 1, 2; RRS §§ 4790, 4791. Formerly RCW 28.57.338, 28.58.080.] Recodified as RCW 28A.315.450 pursuant to 1990 c 33 § 4.

**28A.57.313 Directors—First class districts having city with population of 400,000 people in class AA counties—Terms.** [1979 ex.s. c 183 § 10.] Recodified as RCW 28A.315.460 pursuant to 1990 c 33 § 4.

**28A.57.314 Directors—Declarations of candidacy—Designation of positions.** [1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28.58.082.] Recodified as RCW 28A.315.470 pursuant to 1990 c 33 § 4.

**28A.57.316 Directors—Ballots—Form.** [1969 ex.s. c 223 § 28A.57.316. Prior: 1963 c 223 § 2. Formerly RCW 28.58.083.] Recodified as RCW 28A.315.480 pursuant to 1990 c 33 § 4.

**28A.57.318 Directors—Elected when—Qualifications.** [1969 ex.s. c 223 § 28A.57.318. Prior: 1909 c 97 p 285 § 1; RRS § 4775; prior: 1903 c 104 § 16; 1901 c 41 § 2; 1899 c 142 § 7; 1897 c 118 § 39; 1893 c 107 § 2; 1890 p 364 § 25. Formerly RCW 28.58.090.] Recodified as RCW 28A.315.490 pursuant to 1990 c 33 § 4.

**28A.57.322 Directors—Oath of office.** [1988 c 187 § 1; 1986 c 167 § 16; 1969 ex.s. c 223 § 28A.57.322. Prior: 1909 c 97 p 288 § 11; RRS § 4786; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28.58.095; 28.63.015; 28.63.017; 42.04.030.] Recodified as RCW 28A.315.500 pursuant to 1990 c 33 § 4.

**28A.57.324 Directors—Meetings.** [1983 c 3 § 35; 1975 c 43 § 6; 1969 ex.s. c 223 § 28A.57.324. Prior: (i) 1909 c 97 p 291 § 9; RRS § 4798; prior: 1897 c 118 § 86; 1890 p 389 § 13. Formerly RCW 28.62.090. (ii) 1965 ex.s. c 87 § 1; 1909 c 97 p 299 § 6; RRS § 4816. Formerly RCW 28.63.030. (iii) 1965 ex.s. c 87 § 2; 1909 c 97 p 302 § 6; RRS § 4828. Formerly RCW 28.63.032.] Recodified as RCW 28A.315.510 pursuant to 1990 c 33 § 4.

**28A.57.325 Directors—Quorum—Failure to attend meetings may result in vacation of office.** [1971 c 53 § 4.] Recodified as RCW 28A.315.520 pursuant to 1990 c 33 § 4.

**28A.57.326 Directors—Filling vacancies.** [1975 1st ex.s. c 275 § 100; 1971 c 53 § 2; 1969 ex.s. c 176 § 156; 1969 ex.s. c 223 § 28A.57.326. Prior: (i) 1909 c 97 p 292 § 12; RRS 4801; prior: 1907 c 31 § 3; 1897 c 118 § 89; 1890 p 390 § 16. Formerly RCW 28.62.120. (ii) 1909 c 97 p 298 § 3; RRS § 4813. Formerly RCW 28.63.020. (iii) 1909 c 97 p 301 § 3; RRS § 4825. Formerly RCW 28.63.022. (iv) 1959 c 216 § 7, part; 1955 c 157 § 14, part; prior: 1909 p 281 § 4, part; 1903 c 104 § 14, part; 1899 c 142 § 6, part; 1897 c 118 § 33, part; 1891 c 127 § 3, part; 1890 p 355 § 11, part; RRS § 4770, part. Formerly RCW 28.19.060, part.] Recodified as RCW 28A.315.530 pursuant to 1990 c 33 § 4.

**28A.57.327 Directors—Compensation—Waiver.** [1987 c 307 § 2.] Recodified as RCW 28A.315.540 pursuant to 1990 c 33 § 4.

**28A.57.328 Directors—Number and terms of in new second class districts.** [1980 c 35 § 2; 1979 ex.s. c 126 § 5; 1975-'76 2nd ex.s. c 15 § 5. Prior: 1975 1st ex.s. c 275 § 101; 1975 c 43 § 7; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328; prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28.57.350, part.] Recodified as RCW 28A.315.550 pursuant to 1990 c 33 § 4.

**28A.57.334 Directors—Candidates in undivided districts to indicate term sought—How elected.** [1969 ex.s. c 223 § 28A.57.334. Prior: 1959 c 268 § 12. Formerly RCW 28.57.420.] Recodified as RCW 28A.315.560 pursuant to 1990 c 33 § 4.

**28A.57.336 Directors—Terms in certain first class districts to be staggered.** [1969 c 131 § 11; 1969 ex.s. c 223 § 28A.57.336. Prior: 1959 c 268 § 13. Formerly RCW 28.57.430.] Recodified as RCW 28A.315.570 pursuant to 1990 c 33 § 4.

**28A.57.342 Directors' districts in certain school districts—Submission of proposition at formation election.** [1985 c 385 § 27; 1979 ex.s. c 183 § 2; 1975 c 43 § 8; 1973 2nd ex.s. c 21 § 2; 1971 c 67 § 2; 1969 ex.s. c 223 § 28A.57.342. Prior: 1959 c 268 § 4. Formerly RCW 28.57.342.] Recodified as RCW 28A.315.580 pursuant to 1990 c 33 § 4.

**28A.57.344 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts.** [1985 c 385 § 28; 1979 ex.s. c 183 § 3; 1975 c 43 § 9; 1973 2nd ex.s. c 21 § 3; 1971 c 67 § 8; 1969 ex.s. c 223 § 28A.57.344. Prior: 1959 c 268 § 3. Formerly RCW 28.57.344.] Recodified as RCW 28A.315.590 pursuant to 1990 c 33 § 4.

**28A.57.355 Directors—Number and terms of in first class districts containing no former first class district.** [1980 c 35 § 3; 1979 ex.s. c 126 § 6; 1975 1st ex.s. c 275 § 102; 1971 c 67 § 3.] Recodified as RCW 28A.315.600 pursuant to 1990 c 33 § 4.

**28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district.** [1980 c 35 § 4; 1979

ex.s. c 126 § 7; 1975-'76 2nd ex.s. c 15 § 6. Prior: 1975 1st ex.s. c 275 § 103; 1975 c 43 § 10; 1971 c 67 § 4.] Recodified as RCW 28A.315.610 pursuant to 1990 c 33 § 4.

**28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district.** [1980 c 35 § 5; 1980 c 47 § 2. Prior: 1979 ex.s. c 183 § 4; 1979 ex.s. c 126 § 8; 1975-'76 2nd ex.s. c 15 § 7; prior: 1975 1st ex.s. c 275 § 104; 1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5.] Recodified as RCW 28A.315.620 pursuant to 1990 c 33 § 4.

**28A.57.358 Directors—Number and terms of in new first class district having city with population of 400,000 people in class AA counties.** [1980 c 35 § 6; 1980 c 47 § 3. Prior: 1979 ex.s. c 183 § 5; 1979 ex.s. c 126 § 9; 1975-'76 2nd ex.s. c 15 § 8; prior: 1975 1st ex.s. c 275 § 105; 1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6.] Recodified as RCW 28A.315.630 pursuant to 1990 c 33 § 4.

**28A.57.390 Directors—Map and record of directors' districts.** [1985 c 385 § 29; 1975 1st ex.s. c 275 § 106; 1969 ex.s. c 176 § 140; 1969 ex.s. c 223 § 28A.57.390. Prior: 1947 c 266 § 38; Rem. Supp. 1947 § 4693-57. Formerly RCW 28.57.390.] Recodified as RCW 28A.315.640 pursuant to 1990 c 33 § 4.

**28A.57.410 Directors—Terms specified for directors in divided districts whose terms are not the same.** [1969 ex.s. c 223 § 28A.57.410. Prior: 1959 c 268 § 11. Formerly RCW 28.57.410.] Recodified as RCW 28A.315.650 pursuant to 1990 c 33 § 4.

**28A.57.415 Directors—Dissolution of directors' districts.** [1975-'76 2nd ex.s. c 15 § 9. Prior: 1975 1st ex.s. c 275 § 107; 1975 c 43 § 13; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415.] Recodified as RCW 28A.315.660 pursuant to 1990 c 33 § 4.

**28A.57.425 Directors' districts in first class districts having city with population of 400,000 people in class AA counties—Boundaries—Director candidate eligibility—Declaration of candidacy—Primary limited to voters within district—When no primary—Terms of directors.** [1979 ex.s. c 183 § 6; 1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Like section formerly RCW 28.57.425.] Recodified as RCW 28A.315.670 pursuant to 1990 c 33 § 4.

**28A.57.435 Directors' districts in first class districts having city with population of 400,000 people in class AA counties—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers.** [1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Like section formerly RCW 28.57.426.] Recodified as RCW 28A.315.680 pursuant to 1990 c 33 § 4.

**28A.57.900 Proceedings as of July 28, 1985—Effect of 1985 c 385.** [1985 c 385 § 38.] Recodified as RCW 28A.315.900 pursuant to 1990 c 33 § 4.

#### Chapter 28A.58

##### PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

**28A.58.010 Corporate powers.** [1969 ex.s. c 223 § 28A.58.010. Prior: (i) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040, part. (ii) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 c 97 p 265 § 2, part. Formerly RCW 28.57.135; 28.58.010.] Recodified as RCW 28A.320.010 pursuant to 1990 c 33 § 4.

**28A.58.020 Liability for debts and judgments.** [1969 ex.s. c 223 § 28A.58.020. Prior: 1909 c 97 p 287 § 4; RRS § 4779; prior: 1897 c 118 § 41; 1890 p 365 § 27. Formerly RCW 28.58.020.] Recodified as RCW 28A.320.020 pursuant to 1990 c 33 § 4.

**28A.58.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration.** [1974 ex.s. c 8 § 1.] Recodified as RCW 28A.320.030 pursuant to 1990 c 33 § 4.

**28A.58.031 School closures—Policy of citizen involvement required—Summary of effects—Hearings—Notice.** [1983 c 109 § 2.] Recodified as RCW 28A.335.020 pursuant to 1990 c 33 § 4.

**28A.58.032 Emergency school closures exempt from RCW 28A.58.031.** [1983 c 109 § 3.] Recodified as RCW 28A.335.030 pursuant to 1990 c 33 § 4.

**28A.58.033 Surplus school property, rental, lease or use of—Authorized—Limitations.** [1981 c 306 § 2; 1980 c 115 § 2.] Recodified as RCW 28A.335.040 pursuant to 1990 c 33 § 4.

**28A.58.034 Surplus school property, rental, lease or use of—Joint use—Compensation—Conditions generally.** [1980 c 115 § 3.] Recodified as RCW 28A.335.050 pursuant to 1990 c 33 § 4.

**28A.58.035 Surplus school property—Rental, lease or use of—Disposition of moneys received from.** [1989 c 86 § 2; 1983 c 59 § 15; 1982 c 191 § 4; 1981 c 250 § 4; 1980 c 115 § 4.] Recodified as RCW 28A.335.060 pursuant to 1990 c 33 § 4.

**28A.58.036 Surplus school property, rental, lease or use of—Existing contracts not impaired.** [1980 c 115 § 5.] Recodified as RCW 28A.335.070 pursuant to 1990 c 33 § 4.

**28A.58.037 Surplus school property, rental, lease or use of—Community use not impaired.** [1980 c 115 § 6.] Recodified as RCW 28A.335.080 pursuant to 1990 c 33 § 4.

**28A.58.038 Vacant school plant facilities—Lease by contiguous district.** Cross-reference section, decodified June 1990.

**28A.58.040 Conveyance and acquisition of property—Management.** [1981 c 306 § 3; 1980 c 115 § 1; 1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040.] Recodified as RCW 28A.335.090 pursuant to 1990 c 33 § 4.

**28A.58.0401 School district associations, right to mortgage or convey money security interest in association property—Limitations.** [1975-'76 2nd ex.s. c 23 § 1.] Recodified as RCW 28A.335.100 pursuant to 1990 c 33 § 4.

**28A.58.041 Schoolhouses, teachers' cottages—Purchase of realty for district purposes—Second class districts.** Cross-reference section, decodified June 1990.

**28A.58.043 School property used for public purposes—Second class districts.** Cross-reference section, decodified June 1990.

**28A.58.044 Real property—Annexation to city or town.** [1971 c 69 § 3.] Recodified as RCW 28A.335.110 pursuant to 1990 c 33 § 4.

**28A.58.045 Real property—Sale—Notice of and bearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.** [1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28.58.045.] Recodified as RCW 28A.335.120 pursuant to 1990 c 33 § 4.

**28A.58.0461 Real property—Sale—Use of proceeds.** [1983 c 59 § 14; 1981 c 250 § 3; 1975-'76 2nd ex.s. c 80 § 1; 1975 1st ex.s. c 243 § 2.] Recodified as RCW 28A.335.130 pursuant to 1990 c 33 § 4.

**28A.58.047 Expenditure of funds on county, city building authorized—Conditions.** [1971 ex.s. c 238 § 3.] Recodified as RCW 28A.335.140 pursuant to 1990 c 33 § 4.

**28A.58.048 Permitting use and rental of playgrounds, athletic fields or athletic facilities.** [1969 ex.s. c 223 § 28A.58.048. Prior: (i) 1935 c 99 § 1; Rem. Supp. § 4776-1. Formerly RCW 28.58.048. (ii) 1935 c 99 § 2; RRS § 4776-2. Formerly RCW 28.58.050.] Recodified as RCW 28A.335.150 pursuant to 1990 c 33 § 4.

**28A.58.050 Removing child from school grounds during school hours—Procedure.** [1975 1st ex.s. c 248 § 1.] Recodified as RCW 28A.605.010 pursuant to 1990 c 33 § 4.

**28A.58.053 Parents' access to classroom or school sponsored activities—Limitation.** [1979 ex.s. c 250 § 8.] Recodified as RCW 28A.605.020 pursuant to 1990 c 33 § 4.

**28A.58.055 Purchase of works of art—Procedure.** [1983 c 204 § 7; 1982 c 191 § 2; 1974 ex.s. c 176 § 5.] Recodified as RCW 28A.335.210 pursuant to 1990 c 33 § 4.

**28A.58.060** Schoolhouse sites, acquisition of state school lands for—Limitations. Cross—reference section, decodified June 1990.

**28A.58.070** Eminent domain. [1969 ex.s. c 223 § 28A.58.070. Prior: 1963 c 41 § 1; 1957 c 155 § 1; 1949 c 54 § 1; 1909 c 97 p 289 § 13; Rem. Supp. 1949 § 4788. Formerly RCW 28.58.070.] Recodified as RCW 28A.335.220 pursuant to 1990 c 33 § 4.

**28A.58.075** Joint educational facilities, services or programs—Rules and regulations—Apportionment of attendance credit. [1969 c 130 § 12. Like section formerly RCW 28.58.075.] Recodified as RCW 28A.335.160 pursuant to 1990 c 33 § 4.

**28A.58.080** Summer and/or other student vacation period programs—Authorized—Tuition and fees. [1974 ex.s. c 161 § 1.] Recodified as RCW 28A.320.500 pursuant to 1990 c 33 § 4.

**28A.58.081** Pilot projects in school-based management—Legislative findings and intent. [1985 c 422 § 1.] Recodified as RCW 28A.240.020 pursuant to 1990 c 33 § 4.

**28A.58.082** Pilot projects in school-based management—School site councils required—School improvement plan. [1985 c 422 § 3.] Recodified as RCW 28A.240.030 pursuant to 1990 c 33 § 4.

**28A.58.085** Self-study process by school districts—Requirements—Rules. [1989 c 83 § 1; 1988 c 256 § 2; 1985 c 349 § 2.] Recodified as RCW 28A.320.200 pursuant to 1990 c 33 § 4.

**28A.58.087** Dropout statistics—Reporting requirements—Rules—Reports to legislature. [1986 c 151 § 1.] Recodified as RCW 28A.175.010 pursuant to 1990 c 33 § 4.

**28A.58.090** Student learning objectives—Program identifying and establishing, scope—Review. [1988 c 256 § 1; 1987 c 505 § 9; 1986 c 137 § 1; 1984 c 278 § 3; 1977 ex.s. c 305 § 1; 1975-'76 2nd ex.s. c 90 § 1.] Recodified as RCW 28A.320.210 pursuant to 1990 c 33 § 4.

**28A.58.094** Goals for educational excellence—School district boards of directors to establish annual process. [1984 c 278 § 1.] Recodified as RCW 28A.320.220 pursuant to 1990 c 33 § 4.

**28A.58.0951** Salaries and compensation for employees—Minimum amounts—Limitations—Supplemental contracts. [1987 1st ex.s. c 2 § 205.] Recodified as RCW 28A.400.200 pursuant to 1990 c 33 § 4.

**28A.58.096** Employee attendance incentive program—Remuneration for unused sick leave. [1989 c 69 § 2; 1983 c 275 § 2.] Recodified as RCW 28A.400.210 pursuant to 1990 c 33 § 4.

**28A.58.098** Employee salary or compensation—Limitations respecting. [1989 c 11 § 5; 1982 1st ex.s. c 10 § 1.] Recodified as RCW 28A.400.220 pursuant to 1990 c 33 § 4.

**28A.58.099** Hiring and discharging of employees—Seniority and leave benefits, transfers between school districts. [1985 c 210 § 1; 1985 c 46 § 1; 1983 c 275 § 3.] Recodified as RCW 28A.400.300 pursuant to 1990 c 33 § 4.

**28A.58.0991** Leave sharing program. [1989 c 93 § 6.] Recodified as RCW 28A.400.380 pursuant to 1990 c 33 § 4.

**28A.58.1001** Crimes against children—Mandatory termination of classified employees—Appeal. [1989 c 320 § 3.] Recodified as RCW 28A.400.320 pursuant to 1990 c 33 § 4.

**28A.58.1002** Crimes against children—Contractor employees—Termination of contract. [1989 c 320 § 4.] Recodified as RCW 28A.400.330 pursuant to 1990 c 33 § 4.

**28A.58.1003** Crimes against children—Mandatory termination of certified employees—Appeal. [1989 c 320 § 5.] Recodified as RCW 28A.405.470 pursuant to 1990 c 33 § 4.

**28A.58.101** Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement. [1979 ex.s. c 173 § 2; 1975-'76 2nd ex.s. c 97 § 2; 1975 1st ex.s. c 254 § 1; 1971 ex.s. c 268 § 1; 1969 ex.s. c 223 § 28A.58.101. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(2), (6).] Recodified as RCW 28A.600.010 pursuant to 1990 c 33 § 4.

**28A.58.1011** Government of schools, pupils, employees, rules and regulations for—Aim—Exclusion of student by teacher—Written procedures developed for administering discipline, scope. [1980 c 171 § 1; 1972 ex.s. c 142 § 5.] Recodified as RCW 28A.600.020 pursuant to 1990 c 33 § 4.

**28A.58.102** School buildings, maintenance, furnishing and insuring. [1969 ex.s. c 223 § 28A.58.102. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3), part, and (4) part.] Recodified as RCW 28A.335.010 pursuant to 1990 c 33 § 4.

**28A.58.103** Instructional materials—Instructional materials committee. [1989 c 371 § 1; 1979 ex.s. c 134 § 2; 1975 1st ex.s. c 275 § 109; 1971 c 48 § 29; 1969 ex.s. c 223 § 28A.58.103. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(8) and (9).] Recodified as RCW 28A.320.230 pursuant to 1990 c 33 § 4.

**28A.58.104** Operation and stocking of libraries. [1969 ex.s. c 223 § 28A.58.104. Prior: (i) 1909 c 97 p 299 § 7; RRS § 4817. Formerly RCW 28.63.040. (ii) 1909 c 97 p 302 § 7; RRS § 4829. Formerly RCW 28.63.042.] Recodified as RCW 28A.320.240 pursuant to 1990 c 33 § 4.

**28A.58.105** Night schools, summer schools, meetings, use of facilities for. [1969 ex.s. c 223 § 28A.58.105. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(10) and (12).] Recodified as RCW 28A.320.510 pursuant to 1990 c 33 § 4.

**28A.58.106** Transporting of children to school or school activities—Insurance. Cross—reference section, decodified June 1990.

**28A.58.107** Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets. [1986 c 77 § 1; 1983 c 125 § 1; 1981 c 308 § 1; 1979 ex.s. c 66 § 2; 1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100(7), (13) and (14).] Recodified as RCW 28A.320.080 pursuant to 1990 c 33 § 4.

**28A.58.108** High school diplomas—Issuance—Option to receive final transcripts—Notice. [1984 c 178 § 2.] Recodified as RCW 28A.230.120 pursuant to 1990 c 33 § 4.

**28A.58.110** Bylaws for board and school government. [1969 ex.s. c 223 § 28A.58.110. Prior: 1909 c 97 p 287 § 6; RRS § 4781; prior: 1897 c 118 § 43; 1890 p 366 § 29. Formerly RCW 28.58.110.] Recodified as RCW 28A.320.040 pursuant to 1990 c 33 § 4.

**28A.58.113** Fees for optional noncredit extracurricular events—Disposition. [1977 ex.s. c 170 § 1; 1975 1st ex.s. c 284 § 1.] Recodified as RCW 28A.325.010 pursuant to 1990 c 33 § 4.

**28A.58.115** Associated student bodies—Powers and responsibilities affecting. [1984 c 98 § 1; 1975 1st ex.s. c 284 § 3; 1973 c 52 § 1.] Recodified as RCW 28A.325.020 pursuant to 1990 c 33 § 4.

**28A.58.120** Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes. [1984 c 98 § 2; 1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2.] Recodified as RCW 28A.325.030 pursuant to 1990 c 33 § 4.

**28A.58.125** Interschool athletic and other extracurricular activities for students, regulation of—Delegation, conditions. [1975-'76 2nd ex.s. c 32 § 1.] Recodified as RCW 28A.600.200 pursuant to 1990 c 33 § 4.

**28A.58.131** Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment. [1987 c 141 § 1; 1985 c 7 § 93; 1982 c 191 § 3; 1977 ex.s. c 210 § 1.] Recodified as RCW 28A.335.170 pursuant to 1990 c 33 § 4.

**28A.58.133** Contract for pupil transportation services with private nongovernmental entity—Competitive bid procedures. [1987 c 141 § 2.] Recodified as RCW 28A.160.140 pursuant to 1990 c 33 § 4.

**28A.58.135** Advertising for bids—Competitive bid procedures—Telephone or written quotation solicitation, limitations—Emergencies. [1985 c 324 § 1; 1980 c 61 § 1; 1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28.58.135.] Recodified as RCW 28A.335.190 pursuant to 1990 c 33 § 4.

**28A.58.136** Lunchrooms—Establishment and operation—Personnel for—Agreements for. [1979 ex.s. c 140 § 3; 1979 c 58 § 1; 1973 c 107 § 2; 1969 ex.s. c 223 § 28A.58.136. Prior: (i) 1947 c 31 § 1; 1943 c 51 § 1; 1939 c 160 § 1; Rem. Supp. 1947 § 4706-1. Formerly RCW 28.58.260. (ii) 1943 c 51 § 2; Rem. Supp. 1943 § 4706-2. Formerly RCW 28.58.270.] Recodified as RCW 28A.235.120 pursuant to 1990 c 33 § 4.

**28A.58.137** Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal. [1985 c 7 § 94; 1975-'76 2nd ex.s. c 114 § 10; 1975-'76 2nd ex.s. c 15 § 10. Prior: 1975 1st ex.s. c 254 § 2; 1975-'76 1st ex.s. c 137 § 1; 1969 ex.s. c 223 § 28A.58.137; prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28.62.040, part.] Recodified as RCW 28A.400.010 pursuant to 1990 c 33 § 4.

**28A.58.138** Law against discrimination applicable to districts' employment practices. Cross-reference section, decodified June 1990.

**28A.58.140** Directors' and superintendents' signatures filed with auditor. [1969 ex.s. c 223 § 28A.58.140. Prior: 1909 c 97 p 289 § 12; RRS § 4787; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28.58.140.] Recodified as RCW 28A.400.020 pursuant to 1990 c 33 § 4.

**28A.58.150** Superintendent's duties. [1983 c 56 § 8; 1977 ex.s. c 80 § 30; 1975-'76 2nd ex.s. c 118 § 30; 1975 1st ex.s. c 275 § 110; 1971 c 48 § 30; 1969 ex.s. c 223 § 28A.58.150. Prior: 1909 c 97 p 304 § 2; RRS § 4842; prior: 1907 c 163 § 3; 1899 c 142 § 10; 1897 c 118 § 49; 1893 c 107 § 5; 1891 c 127 § 12; 1890 p 367 § 34; Code 1881 §§ 3194, 3195, 3196, 3197; 1873 p 428 §§ 10, 11, 12, 13. Formerly RCW 28.58.150.] Recodified as RCW 28A.400.030 pursuant to 1990 c 33 § 4.

**28A.58.160** Principals and vice principals—Employment of—Qualifications—Duties. [1977 ex.s. c 272 § 1.] Recodified as RCW 28A.400.100 pursuant to 1990 c 33 § 4.

**28A.58.170** Officials and employees to deliver books, papers and moneys to successors. [1969 ex.s. c 223 § 28A.58.170. Prior: 1909 c 97 p 288 § 10; RRS § 4785; prior: 1897 c 118 § 60; 1890 p 386 § 69. Formerly RCW 28.58.170.] Recodified as RCW 28A.400.150 pursuant to 1990 c 33 § 4.

**28A.58.190** Qualification for admission to district's schools—Fees for preadmission screening. [1986 c 166 § 1; 1979 ex.s. c 250 § 4; 1977 ex.s. c 359 § 14; 1969 ex.s. c 223 § 28A.58.190. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28.58.190 part, 28.01.060.] Recodified as RCW 28A.225.160 pursuant to 1990 c 33 § 4.

**28A.58.195** Grading policies—Option to consider attendance. [1984 c 278 § 7.] Recodified as RCW 28A.600.030 pursuant to 1990 c 33 § 4.

**28A.58.200** Pupils to comply with rules and regulations. [1969 ex.s. c 223 § 28A.58.200. Prior: 1909 c 97 p 263 § 6; RRS § 4690; prior: 1897 c 118 § 69; 1890 p 372 § 48. Formerly RCW 28.58.200.] Recodified as RCW 28A.600.040 pursuant to 1990 c 33 § 4.

**28A.58.201** Principal to assure appropriate student discipline—Building discipline standards, conferences on. [1980 c 171 § 2; 1975-

'76 2nd ex.s. c 97 § 3.] Recodified as RCW 28A.400.110 pursuant to 1990 c 33 § 4.

**28A.58.205** Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. Cross-reference section, decodified June 1990.

**28A.58.210** Children on United States reservations, admission to schools—United States authorities to cooperate. [1969 ex.s. c 223 § 28A.58.210. Prior: 1945 c 141 § 10; 1933 c 28 § 10; 1925 ex.s. c 93 § 1; Rem. Supp. 1945 § 4680-1. Formerly RCW 28.58.210, 28.27.140.] Recodified as RCW 28A.225.170 pursuant to 1990 c 33 § 4.

**28A.58.215** Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district. [1969 ex.s. c 223 § 28A.58.215. Prior: 1925 ex.s. c 93 § 3; RRS § 4680-3. Formerly RCW 28.58.215.] Recodified as RCW 28A.225.180 pursuant to 1990 c 33 § 4.

**28A.58.217** Contracts with University of Washington for education of highly capable students at early entrance program or transition school—Allocation of funds—Rules. [1989 c 233 § 9; 1987 c 518 § 222.] Recodified as RCW 28A.185.040 pursuant to 1990 c 33 § 4.

**28A.58.220** Reimbursing district for educating children of employees of municipal light plant. [1969 ex.s. c 223 § 28A.58.220. Prior: 1929 c 77 § 1; RRS § 4680-5. Formerly RCW 28.58.220.] Recodified as RCW 28A.225.190 pursuant to 1990 c 33 § 4.

**28A.58.225** Education of pupils in another district—Limitation as to state apportionment—Exemption. [1988 c 268 § 6; 1979 ex.s. c 140 § 1; 1975 1st ex.s. c 275 § 111; 1969 ex.s. c 176 § 141; 1969 ex.s. c 223 § 28A.58.225. Prior: 1965 ex.s. c 154 § 10. Formerly RCW 28.24.110.] Recodified as RCW 28A.225.200 pursuant to 1990 c 33 § 4.

**28A.58.230** Admission of out-of-district pupils tuition free, when. [1983 c 3 § 37; 1969 c 130 § 9; 1969 ex.s. c 223 § 28A.58.230. Prior: 1917 c 21 § 9; RRS § 4718. Formerly RCW 28.58.230.] Recodified as RCW 28A.225.210 pursuant to 1990 c 33 § 4.

**28A.58.235** Enrollment of children without legal residences. [1989 c 118 § 1.] Recodified as RCW 28A.225.215 pursuant to 1990 c 33 § 4.

**28A.58.240** Adults, children from other districts, agreements for attending school—Tuition. [1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28.58.240.] Recodified as RCW 28A.225.220 pursuant to 1990 c 33 § 4.

**28A.58.242** Appeal from certain decisions to deny student's request to attend nonresident district—Procedure. [1977 c 50 § 1; 1975 1st ex.s. c 66 § 1.] Recodified as RCW 28A.225.230 pursuant to 1990 c 33 § 4.

**28A.58.243** Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit. [1975 1st ex.s. c 66 § 2.] Recodified as RCW 28A.225.240 pursuant to 1990 c 33 § 4.

**28A.58.245** Voluntary, tuition free attendance programs among school districts, scope—Rules and regulations. [1969 c 130 § 11. Like section formerly RCW 28.58.245.] Recodified as RCW 28A.225.250 pursuant to 1990 c 33 § 4.

**28A.58.246** Community education programs—Purposes. [1985 c 344 § 1; 1985 c 341 § 12; 1979 ex.s. c 120 § 1.] Recodified as RCW 28A.620.010 pursuant to 1990 c 33 § 4.

**28A.58.247** Community education programs—Restrictions—Classes on parenting skills and child abuse prevention encouraged. [1985 c 344 § 2; 1979 ex.s. c 120 § 2; 1973 c 138 § 1.] Recodified as RCW 28A.620.020 pursuant to 1990 c 33 § 4.

**28A.58.250** Reciprocity exchanges with other states. [1969 ex.s. c 223 § 28A.58.250. Prior: 1963 c 47 § 3; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28.58.250.] Recodified as RCW 28A.225.260 pursuant to 1990 c 33 § 4.

**28A.58.255** Prevention of child abuse and neglect—Written policy—Participation in and establishment of programs. [1987 c 489 § 6.] Recodified as RCW 28A.230.080 pursuant to 1990 c 33 § 4.

**28A.58.275 Lunch period for certificated employees—Supervision by noncertificated personnel.** [1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28.58.275.] Recodified as RCW 28A.405.460 pursuant to 1990 c 33 § 4.

**28A.58.310 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses.** [1977 c 73 § 1; 1969 ex.s. c 26 § 2; 1969 ex.s. c 223 § 28A.58.310. Prior: 1961 c 268 § 15; prior: 1919 c 90 § 6, part; 1909 c 97 p 287 § 8, part; RRS § 4783, part. Formerly RCW 28.58.310.] Recodified as RCW 28A.320.050 pursuant to 1990 c 33 § 4.

**28A.58.370 Special meetings of voters—Authorized—Purpose.** [1982 c 158 § 4; 1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28.58.370.] Recodified as RCW 28A.320.420 pursuant to 1990 c 33 § 4.

**28A.58.380 Special meetings of voters—Place, notice, procedure, record.** [1969 ex.s. c 223 § 28A.58.380. Prior: 1909 c 97 p 350 § 2; RRS § 5029; prior: 1897 c 118 § 157. Formerly RCW 28.58.380, 28.58.390, part.] Recodified as RCW 28A.320.430 pursuant to 1990 c 33 § 4.

**28A.58.390 Special meetings of voters—Directors to follow electors' decision.** [1969 ex.s. c 223 § 28A.58.390. Prior: 1909 c 97 p 350 § 3; RRS § 5030; prior: 1897 c 118 § 158. Formerly RCW 28.58.390.] Recodified as RCW 28A.320.440 pursuant to 1990 c 33 § 4.

**28A.58.400 Parental schools—Powers to lease or sell facilities.** Cross-reference section, decodified June 1990.

**28A.58.410 School district as self-insurer—Authority.** [1982 c 191 § 10.] Recodified as RCW 28A.320.070 pursuant to 1990 c 33 § 4.

**28A.58.420 Liability, life, health, health care, accident, disability, and salary insurance authorized—Premiums.** [1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.] Recodified as RCW 28A.400.350 pursuant to 1990 c 33 § 4.

**28A.58.423 Liability insurance for officials and employees authorized.** [1973 c 125 § 1.] Recodified as RCW 28A.400.360 pursuant to 1990 c 33 § 4.

**28A.58.425 Mandatory insurance protection for employees.** [1971 ex.s. c 269 § 1.] Recodified as RCW 28A.400.370 pursuant to 1990 c 33 § 4.

**28A.58.427 Liability insurance for officers and employees authorized.** Cross-reference section, decodified June 1990.

**28A.58.428 Transportation vehicle fund—Deposits in—Use—Rules for establishment and use.** [1981 c 265 § 7.] Recodified as RCW 28A.160.130 pursuant to 1990 c 33 § 4.

**28A.58.430 Investment of funds, including funds received by ESD—Authority—Procedure.** [1982 c 191 § 5; 1975 c 47 § 1.] Recodified as RCW 28A.320.300 pursuant to 1990 c 33 § 4.

**28A.58.435 Investment of idle building funds—Restrictions.** [1985 c 7 § 95; 1971 c 8 § 4. Prior: 1945 c 29 § 1.] Recodified as RCW 28A.320.310 pursuant to 1990 c 33 § 4.

**28A.58.440 Investment of funds of district not needed for immediate necessities—Service fee.** [1983 c 66 § 1; 1969 ex.s. c 223 § 28A.58.440. Prior: 1965 c 111 § 1; 1961 c 123 § 1. Formerly RCW 28.58.440.] Recodified as RCW 28A.320.320 pursuant to 1990 c 33 § 4.

**28A.58.441 School funds enumerated—Deposits—Uses.** [1983 c 59 § 13; 1982 c 191 § 6; 1981 c 250 § 2.] Recodified as RCW 28A.320.330 pursuant to 1990 c 33 § 4.

**28A.58.442 Certificated employees, conditions for contracts, nonrenewal of contracts.** Cross-reference section, decodified June 1990.

**28A.58.444 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.** Cross-reference section, decodified June 1990.

**28A.58.445 Certificated employees, applicants for certificated position, not to be discriminated against—Right to inspect personnel file.** [1969 ex.s. c 34 § 21. Like section formerly RCW 28.58.445.] Recodified as RCW 28A.405.250 pursuant to 1990 c 33 § 4.

**28A.58.450 Adverse change in contract status of certificated employee—Determination of probable cause—Notice—Opportunity for hearing.** [1975-'76 2nd ex.s. c 114 § 2; 1973 c 49 § 1; 1969 ex.s. c 34 § 13; 1969 ex.s. c 223 § 28A.58.450. Prior: 1961 c 241 § 2. Formerly RCW 28.58.450.] Recodified as RCW 28A.405.300 pursuant to 1990 c 33 § 4.

**28A.58.455 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure.** [1987 c 375 § 1; 1977 ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 114 § 5.] Recodified as RCW 28A.405.310 pursuant to 1990 c 33 § 4.

**28A.58.460 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Notice—Service—Filing—Contents.** [1969 ex.s. c 34 § 14; 1969 ex.s. c 223 § 28A.58.460. Prior: 1961 c 241 § 3. Formerly RCW 28.58.460.] Recodified as RCW 28A.405.320 pursuant to 1990 c 33 § 4.

**28A.58.470 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Certification and filing with court of transcript.** [1969 ex.s. c 223 § 28A.58.470. Prior: 1961 c 241 § 4. Formerly RCW 28.58.470.] Recodified as RCW 28A.405.330 pursuant to 1990 c 33 § 4.

**28A.58.480 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Scope.** [1975-'76 2nd ex.s. c 114 § 6; 1969 ex.s. c 34 § 15; 1969 ex.s. c 223 § 28A.58.480. Prior: 1961 c 241 § 5. Formerly RCW 28.58.480.] Recodified as RCW 28A.405.340 pursuant to 1990 c 33 § 4.

**28A.58.490 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Costs, attorney's fee and damages.** [1975-'76 2nd ex.s. c 114 § 7; 1969 ex.s. c 34 § 16; 1969 ex.s. c 223 § 28A.58.490. Prior: 1961 c 241 § 6. Formerly RCW 28.58.490.] Recodified as RCW 28A.405.350 pursuant to 1990 c 33 § 4.

**28A.58.500 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appellate review.** [1988 c 202 § 26; 1971 c 81 § 71; 1969 ex.s. c 223 § 28A.58.500. Prior: 1961 c 241 § 7. Formerly RCW 28.58.500.] Recodified as RCW 28A.405.360 pursuant to 1990 c 33 § 4.

**28A.58.510 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Other statutes not applicable.** [1969 ex.s. c 223 § 28A.58.510. Prior: 1961 c 241 § 8. Formerly RCW 28.58.510.] Recodified as RCW 28A.405.370 pursuant to 1990 c 33 § 4.

**28A.58.515 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Direct judicial appeal, when.** [1975-'76 2nd ex.s. c 114 § 8; 1973 c 49 § 3; 1969 ex.s. c 34 § 18. Like section formerly RCW 28.58.515.] Recodified as RCW 28A.405.380 pursuant to 1990 c 33 § 4.

**28A.58.518 Appeals by certificated employees governed by chapter 28A.88 RCW, when.** Cross-reference section, decodified June 1990.

**28A.58.520 Elections—Qualifications of electors—Voting place.** [1969 ex.s. c 223 § 28A.58.520. Prior: 1941 c 12 § 1; Rem. Supp. 1941 § 5025-1. Formerly RCW 28.58.520.] Recodified as RCW 28A.320.400 pursuant to 1990 c 33 § 4.

**28A.58.521 Elections—Elections to be conducted according to Title 29 RCW.** [1969 ex.s. c 223 § 28A.58.521. Prior: 1965 c 123 § 8. Formerly RCW 28.58.521.] Recodified as RCW 28A.320.410 pursuant to 1990 c 33 § 4.

**28A.58.530 Information and research services.** [1975 1st ex.s. c 275 § 112; 1971 ex.s. c 93 § 4; 1969 ex.s. c 176 § 142; 1969 ex.s. c 223 § 28A.58.530. Prior: 1963 c 30 § 1. Formerly RCW 28.58.530.] Recodified as RCW 28A.320.110 pursuant to 1990 c 33 § 4.

**28A.58.535 Educational and career opportunities in the military, student access to information on, when.** [1980 c 96 § 1.] Recodified as RCW 28A.230.180 pursuant to 1990 c 33 § 4.

**28A.58.540 Periodicals, postage—Purchases of—Manner of payment.** Cross-reference section, decodified June 1990.

**28A.58.550 Conditional sales contracts for acquisition of property or property rights.** [1970 ex.s. c 42 § 11; 1969 ex.s. c 223 § 28A.58.550. Prior: 1965 c 62 § 1. Formerly RCW 28.58.550.] Recodified as RCW 28A.335.200 pursuant to 1990 c 33 § 4.

**28A.58.560 Tax deferred annuities.** [1984 c 228 § 1; 1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.] Recodified as RCW 28A.400.250 pursuant to 1990 c 33 § 4.

**28A.58.565 Pension benefits or annuity benefits for certain classifications of employees—Procedure.** [1972 ex.s. c 27 § 1.] Recodified as RCW 28A.400.260 pursuant to 1990 c 33 § 4.

**28A.58.570 Interfering by force or violence with any administrator, faculty member or student unlawful—Penalty.** Cross-reference section, decodified June 1990.

**28A.58.571 Intimidating any administrator, faculty member or student by threat of force or violence unlawful—Penalty.** Cross-reference section, decodified June 1990.

**28A.58.580 Job sharing.** [1989 c 206 § 1.] Recodified as RCW 28A.405.070 pursuant to 1990 c 33 § 4.

**28A.58.600 Change of district name—Authorized—Petition for.** [1969 ex.s. c 223 § 28A.58.600. Prior: 1967 ex.s. c 69 § 1. Formerly RCW 28.58.600.] Recodified as RCW 28A.315.690 pursuant to 1990 c 33 § 4.

**28A.58.601 Change of district name—Public hearing on—Notice of—Hearing may include additional petitions.** [1969 ex.s. c 223 § 28A.58.601. Prior: 1967 ex.s. c 69 § 2. Formerly RCW 28.58.601.] Recodified as RCW 28A.315.700 pursuant to 1990 c 33 § 4.

**28A.58.602 Change of district name—Board selection of name for voter approval.** [1969 ex.s. c 223 § 28A.58.602. Prior: 1967 ex.s. c 69 § 3. Formerly RCW 28.58.602.] Recodified as RCW 28A.315.710 pursuant to 1990 c 33 § 4.

**28A.58.603 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions.** [1975 1st ex.s. c 275 § 114; 1971 c 48 § 32; 1969 ex.s. c 223 § 28A.58.603. Prior: 1967 ex.s. c 69 § 4. Formerly RCW 28.58.603.] Recodified as RCW 28A.315.720 pursuant to 1990 c 33 § 4.

**28A.58.610 Preparing and distributing information on district's instructional program, operation and maintenance—Limitation.** [1969 ex.s. c 283 § 11. Formerly RCW 28.58.610.] Recodified as RCW 28A.320.090 pursuant to 1990 c 33 § 4.

**28A.58.620 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation.** [1975 1st ex.s. c 275 § 115; 1972 ex.s. c 142 § 1.] Recodified as RCW 28A.320.100 pursuant to 1990 c 33 § 4.

**28A.58.630 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.** [1975 1st ex.s. c 275 § 116; 1972 ex.s. c 142 § 2.] Recodified as RCW 28A.320.060 pursuant to 1990 c 33 § 4.

**28A.58.640 School involvement program—Intent.** [1987 c 518 § 301.] Recodified as RCW 28A.615.010 pursuant to 1990 c 33 § 4.

**28A.58.642 School involvement programs—Development—Policies and plans.** [1987 c 518 § 302.] Recodified as RCW 28A.615.020 pursuant to 1990 c 33 § 4.

**28A.58.644 School involvement programs—Information—Suggestions—Agreements.** [1987 c 518 § 303.] Recodified as RCW 28A.615.030 pursuant to 1990 c 33 § 4.

**28A.58.646 School involvement programs—Role of employers.** [1987 c 518 § 304.] Recodified as RCW 28A.615.040 pursuant to 1990 c 33 § 4.

**28A.58.648 School involvement programs—Information about programs—Duties of superintendent through state clearinghouse for education information.** [1987 c 518 § 305.] Recodified as RCW 28A.615.050 pursuant to 1990 c 33 § 4.

**28A.58.720 Nonprofit meal program for elderly—Purpose.** [1973 c 107 § 1.] Recodified as RCW 28A.623.010 pursuant to 1990 c 33 § 4.

**28A.58.722 Nonprofit meal program for elderly—Authorized—Restrictions.** [1973 c 107 § 3.] Recodified as RCW 28A.623.020 pursuant to 1990 c 33 § 4.

**28A.58.724 Nonprofit meal program for certain children and students—Conditions and restrictions.** [1979 c 58 § 2.] Recodified as RCW 28A.623.030 pursuant to 1990 c 33 § 4.

**28A.58.730 Deposit of cumulative total of earnings of group of employees—Authorized—Conditions.** [1973 c 111 § 5.] Recodified as RCW 28A.400.230 pursuant to 1990 c 33 § 4.

**28A.58.740 Deferred compensation plan for district employees—Limitations.** [1975 1st ex.s. c 205 § 1; 1974 ex.s. c 11 § 1.] Recodified as RCW 28A.400.240 pursuant to 1990 c 33 § 4.

**28A.58.750 Basic Education Act of 1977—Program contents—As meeting constitutional requirements.** [1977 ex.s. c 359 § 1.] Recodified as RCW 28A.150.200 pursuant to 1990 c 33 § 4.

**28A.58.752 Basic Education Act of 1977—Goal.** [1977 ex.s. c 359 § 2.] Recodified as RCW 28A.150.210 pursuant to 1990 c 33 § 4.

**28A.58.754 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations.** [1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3.] Recodified as RCW 28A.150.220 pursuant to 1990 c 33 § 4.

**28A.58.755 Waiver from provisions of RCW 28A.58.750 through 28A.58.754 authorized, when—Criteria by state board of education.** Cross-reference section, decodified June 1990.

**28A.58.758 Basic Education Act of 1977—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide.** [1979 ex.s. c 250 § 7; 1977 ex.s. c 359 § 18.] Recodified as RCW 28A.150.230 pursuant to 1990 c 33 § 4.

**28A.58.760 Basic Education Act of 1977—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty.** [1979 ex.s. c 250 § 5; 1977 ex.s. c 359 § 19.] Recodified as RCW 28A.150.240 pursuant to 1990 c 33 § 4.

**28A.58.765 Educational program for juveniles in detention facilities.** [1983 c 98 § 3.] Recodified as RCW 28A.190.010 pursuant to 1990 c 33 § 4.

**28A.58.770 Educational programs for residential school residents—"Residential school" defined.** [1979 ex.s. c 217 § 1.] Recodified as RCW 28A.190.020 pursuant to 1990 c 33 § 4.

**28A.58.772 Educational programs for residential school residents—School district to conduct—Scope of duties and authority.** [1985 c 341 § 13; 1984 c 160 § 3; 1979 ex.s. c 217 § 2.] Recodified as RCW 28A.190.030 pursuant to 1990 c 33 § 4.

**28A.58.774 Educational programs for residential school residents—Duties and authority of DSHS and residential school superintendent.** [1979 ex.s. c 217 § 3.] Recodified as RCW 28A.190.040 pursuant to 1990 c 33 § 4.

**28A.58.776 Educational programs for residential school residents—Contracts between school district and DSHS—Scope.** [1979 ex.s. c 217 § 4.] Recodified as RCW 28A.190.050 pursuant to 1990 c 33 § 4.

**28A.58.778 Educational programs for residential school residents—DSHS to give notice when need for reduction of staff—Liability upon failure.** [1979 ex.s. c 217 § 5.] Recodified as RCW 28A.190.060 pursuant to 1990 c 33 § 4.

**28A.58.800 Transitional bilingual instruction program—Short title—Purpose.** [1984 c 124 § 1; 1979 c 95 § 1.] Recodified as RCW 28A.180.010 pursuant to 1990 c 33 § 4.

**28A.58.801 Transitional bilingual instruction program—Annual report by superintendent of public instruction.** [1984 c 124 § 8.] Recodified as RCW 28A.180.020 pursuant to 1990 c 33 § 4.

**28A.58.802 Transitional bilingual instruction program—Definitions.** [1984 c 124 § 2; 1979 c 95 § 2.] Recodified as RCW 28A.180.030 pursuant to 1990 c 33 § 4.

**28A.58.804 Transitional bilingual instruction program—School board duties.** [1984 c 124 § 3; 1979 c 95 § 3.] Recodified as RCW 28A.180.040 pursuant to 1990 c 33 § 4.

**28A.58.806 Transitional bilingual instruction program—Advisory committee participation.** [1984 c 124 § 4; 1979 c 95 § 4.] Recodified as RCW 28A.180.050 pursuant to 1990 c 33 § 4.

**28A.58.808 Transitional bilingual instruction program—Guidelines and rules.** [1984 c 124 § 5; 1979 c 95 § 5.] Recodified as RCW 28A.180.060 pursuant to 1990 c 33 § 4.

**28A.58.809 Transitional bilingual instruction program—School districts may enrich.** [1984 c 124 § 6.] Recodified as RCW 28A.180.070 pursuant to 1990 c 33 § 4.

**28A.58.810 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test—Gifts and donations.** [1979 c 95 § 6.] Recodified as RCW 28A.180.080 pursuant to 1990 c 33 § 4.

**28A.58.820 State scholars' program—Purpose.** [1985 c 341 § 14; 1981 c 54 § 1.] Recodified as RCW 28A.600.100 pursuant to 1990 c 33 § 4.

**28A.58.822 State scholars' program—Established—Scope.** [1988 c 210 § 4; 1987 c 465 § 1; 1981 c 54 § 2.] Recodified as RCW 28A.600.110 pursuant to 1990 c 33 § 4.

**28A.58.824 State scholars' program—Administration—Cooperation with other agencies.** [1985 c 370 § 32; 1981 c 54 § 3.] Recodified as RCW 28A.600.120 pursuant to 1990 c 33 § 4.

**28A.58.826 State scholars' program—Planning committee—Composition—Duties.** [1985 c 370 § 33; 1981 c 54 § 4.] Recodified as RCW 28A.600.130 pursuant to 1990 c 33 § 4.

**28A.58.828 State scholars' program—Principal's association to submit names to board.** [1985 c 370 § 34; 1981 c 54 § 5.] Recodified as RCW 28A.600.140 pursuant to 1990 c 33 § 4.

**28A.58.830 State scholars' program—Selection and notification process—Certificates—Awards ceremony.** [1985 c 370 § 35; 1981 c 54 § 6.] Recodified as RCW 28A.600.150 pursuant to 1990 c 33 § 4.

**28A.58.840 Washington award for vocational excellence.** Cross-reference section, decodified June 1990.

**28A.58.842 Commendable employee service and recognition award program.** [1987 1st ex.s. c 2 § 210; 1985 c 399 § 2.] Recodified as RCW 28A.625.150 pursuant to 1990 c 33 § 4.

#### Chapter 28A.59

#### PROVISIONS APPLICABLE ONLY TO FIRST CLASS DISTRICTS

**28A.59.006 Elections in first class school districts containing a city of the first class, in class A and class AA counties.** Cross-reference section, decodified June 1990.

**28A.59.007 Elections for school directors in district embracing city over one hundred thousand.** Cross-reference section, decodified June 1990.

**28A.59.030 Board president, vice president or president pro tempore—Secretary.** [1969 ex.s. c 223 § 28A.59.030. Prior: 1953 c 111 § 6; prior: 1909 c 97 p 290 § 3, part; RRS § 4792, part. Formerly RCW 28.62.030.] Recodified as RCW 28A.330.010 pursuant to 1990 c 33 § 4.

**28A.59.040 Certain board elections, manner and vote required—Selection of personnel, manner.** [1969 ex.s. c 223 § 28A.59.040. Prior: 1909 c 97 p 290 § 4; RRS § 4793. Formerly RCW 28.62.040.] Recodified as RCW 28A.330.020 pursuant to 1990 c 33 § 4.

**28A.59.050 Duties of president.** [1969 ex.s. c 223 § 28A.59.050. Prior: 1909 c 97 p 290 § 5; RRS § 4794. Formerly RCW 28.62.050.] Recodified as RCW 28A.330.030 pursuant to 1990 c 33 § 4.

**28A.59.060 Duties of vice president.** [1969 ex.s. c 223 § 28A.59.060. Prior: 1909 c 97 p 291 § 6; RRS § 4795. Formerly RCW 28.62.060.] Recodified as RCW 28A.330.040 pursuant to 1990 c 33 § 4.

**28A.59.070 Duties of superintendent as secretary of the board.** [1969 ex.s. c 223 § 28A.59.070. Prior: 1919 c 90 § 8; 1909 c 97 p 291

§ 7; RRS § 4796. Formerly RCW 28.62.070.] Recodified as RCW 28A.330.050 pursuant to 1990 c 33 § 4.

**28A.59.080 Superintendent's bond and oath.** [1975 1st ex.s. c 275 § 117; 1971 c 48 § 33; 1969 ex.s. c 223 § 28A.59.080. Prior: 1909 c 97 p 291 § 8; RRS § 4797. Formerly RCW 28.62.080.] Recodified as RCW 28A.330.060 pursuant to 1990 c 33 § 4.

**28A.59.091 Directors—Meetings.** Cross-reference section, decodified June 1990.

**28A.59.100 Office of board—Records available for public inspection.** [1989 c 232 § 1; 1969 ex.s. c 223 § 28A.59.100. Prior: 1909 c 97 p 291 § 10; RRS § 4799; prior: 1897 c 118 § 87; 1890 p 389 § 14. Formerly RCW 28.62.100.] Recodified as RCW 28A.330.070 pursuant to 1990 c 33 § 4.

**28A.59.110 Payment of claims—Signing of warrants.** [1969 ex.s. c 223 § 28A.59.110. Prior: 1909 c 97 p 292 § 11; RRS § 4800. Formerly RCW 28.62.110.] Recodified as RCW 28A.330.080 pursuant to 1990 c 33 § 4.

**28A.59.121 Board vacancies, filling of.** Cross-reference section, decodified June 1990.

**28A.59.150 Auditing committee and expenditures.** [1983 c 56 § 9; 1975 1st ex.s. c 275 § 118; 1971 c 48 § 34; 1969 ex.s. c 223 § 28A.59.150. Prior: 1909 c 97 p 292 § 14; RRS § 4803. Formerly RCW 28.62.150, 28.62.160.] Recodified as RCW 28A.330.090 pursuant to 1990 c 33 § 4.

**28A.59.180 Additional powers of board.** [1983 c 2 § 7. Prior: 1982 c 191 § 11; 1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180; prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28.62.180, 28.31.070.] Recodified as RCW 28A.330.100 pursuant to 1990 c 33 § 4.

**28A.59.185 Insurance reserve—Funds.** [1983 c 59 § 16; 1982 c 191 § 12; 1969 ex.s. c 223 § 28A.59.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28.59.030.] Recodified as RCW 28A.330.110 pursuant to 1990 c 33 § 4.

**28A.59.310 School district warrants, first class districts.** Cross-reference section, decodified June 1990.

#### Chapter 28A.60

#### PROVISIONS APPLICABLE ONLY TO SECOND CLASS DISTRICTS

**28A.60.010 Organization of board—Assumption of superintendent's duties by board member, when.** [1988 c 187 § 2; 1975 c 43 § 14; 1969 ex.s. c 223 § 28A.60.010. Prior: 1953 c 111 § 1; prior: (i) 1909 c 97 p 298 § 5; RRS § 4815. (ii) 1909 c 97 p 301 § 5; RRS § 4827. Formerly RCW 28.63.010.] Recodified as RCW 28A.330.200 pursuant to 1990 c 33 § 4.

**28A.60.021 Board vacancies, filling of.** Cross-reference section, decodified June 1990.

**28A.60.031 Directors—Meetings.** Cross-reference section, decodified June 1990.

**28A.60.070 Notice to ESD superintendent of change of chairman or superintendent.** [1975-'76 2nd ex.s. c 15 § 11. Prior: 1975 1st ex.s. c 275 § 119; 1975 c 43 § 15; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070; prior: 1909 c 97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28.63.070.] Recodified as RCW 28A.330.210 pursuant to 1990 c 33 § 4.

**28A.60.101 Budgets—Second class districts.** Cross-reference section, decodified June 1990.

**28A.60.181 Schoolhouses, teachers' cottages—Purchase of realty for district purposes.** [1969 ex.s. c 223 § 28A.60.181. Prior: 1963 c 61 § 1; 1959 c 169 § 1. Formerly RCW 28.63.181.] Recodified as RCW 28A.335.240 pursuant to 1990 c 33 § 4.

**28A.60.190 School property used for public purposes.** [1975 c 43 § 16; 1969 ex.s. c 223 § 28A.60.190. Prior: 1913 c 129 § 1; RRS § 4837. Formerly RCW 28.63.190.] Recodified as RCW 28A.335.250 pursuant to 1990 c 33 § 4.

**28A.60.200 School property used for public purposes—Community buildings.** [1975 c 43 § 17; 1969 ex.s. c 223 § 28A.60.200. Prior: 1913 c 129 § 2; RRS § 4838. Formerly RCW 28.63.200.] Recodified as RCW 28A.335.260 pursuant to 1990 c 33 § 4.

**28A.60.210 School property used for public purposes—Special state commission to pass on plans.** [1975-'76 2nd ex.s. c 15 § 12. Prior: 1975 1st ex.s. c 275 § 121; 1975 c 43 § 18; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210; prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28.63.210.] Recodified as RCW 28A.335.270 pursuant to 1990 c 33 § 4.

**28A.60.220 School property used for public purposes—Limit on expenditures.** [1969 ex.s. c 223 § 28A.60.220. Prior: 1913 c 129 § 4; RRS § 4840. Formerly RCW 28.63.220.] Recodified as RCW 28A.335.280 pursuant to 1990 c 33 § 4.

**28A.60.310 Attorney may be employed.** [1975 c 43 § 19; 1971 c 8 § 5. Prior: 1967 c 220 § 1. Formerly RCW 28.63.340.] Recodified as RCW 28A.330.220 pursuant to 1990 c 33 § 4.

**28A.60.320 School physician or school nurse may be employed.** [1975 c 43 § 20; 1969 ex.s. c 223 § 28A.60.320. Prior: 1937 c 60 § 1; RRS § 4776-4. Formerly RCW 28.31.080.] Recodified as RCW 28A.210.300 pursuant to 1990 c 33 § 4.

**28A.60.328 Drawing and issuance of warrants.** [1983 c 56 § 10; 1975 c 43 § 21; 1973 c 111 § 1.] Recodified as RCW 28A.330.230 pursuant to 1990 c 33 § 4.

**28A.60.330 Issuance of warrants—Second class districts.** Cross-reference section, decodified June 1990.

**28A.60.350 Housing for superintendent—Authorized—Limitation.** [1984 c 40 § 10; 1975 1st ex.s. c 41 § 1.] Recodified as RCW 28A.335.290 pursuant to 1990 c 33 § 4.

**28A.60.360 Employment contracts.** [1989 c 263 § 2.] Recodified as RCW 28A.330.240 pursuant to 1990 c 33 § 4.

#### Chapter 28A.61

##### WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

**28A.61.010 Association created.** [1969 ex.s. c 223 § 28A.61.010. Prior: 1947 c 169 § 1; Rem. Supp. 1947 § 4709-20. Formerly RCW 28.58.320.] Recodified as RCW 28A.345.010 pursuant to 1990 c 33 § 4.

**28A.61.020 Membership.** [1969 ex.s. c 223 § 28A.61.020. Prior: 1947 c 169 § 2; Rem. Supp. 1947 § 4709-21. Formerly RCW 28.58-330.] Recodified as RCW 28A.345.020 pursuant to 1990 c 33 § 4.

**28A.61.030 Powers of association.** [1989 c 325 § 1; 1983 c 187 § 1; 1979 c 151 § 13; 1974 ex.s. c 101 § 1; 1969 ex.s. c 184 § 4; 1969 ex.s. c 223 § 28A.61.030. Prior: 1947 c 169 § 3; Rem. Supp. 1947 § 4709-22. Formerly RCW 28.58.340.] Recodified as RCW 28A.345.030 pursuant to 1990 c 33 § 4.

**28A.61.035 Certain personnel exempted from the state civil service laws.** Cross-reference section, decodified June 1990.

**28A.61.040 Coordination of policies—Report.** [1969 ex.s. c 223 § 28A.61.040. Prior: 1947 c 169 § 4; Rem. Supp. 1947 § 4709-23. Formerly RCW 28.58.350.] Recodified as RCW 28A.345.040 pursuant to 1990 c 33 § 4.

**28A.61.050 Association dues—Payment.** [1983 c 187 § 2; 1969 c 125 § 2; 1969 ex.s. c 223 § 28A.61.050. Prior: 1967 ex.s. c 8 § 76; 1965 c 103 § 1; 1957 c 281 § 1; 1953 c 226 § 1; 1947 c 169 § 5; Rem. Supp. 1947 § 4709-24. Formerly RCW 28.58.360.] Recodified as RCW 28A.345.050 pursuant to 1990 c 33 § 4.

**28A.61.070 Audit of staff classifications and employees' salaries—Contract with department of personnel—Copies.** [1986 c 158 § 3; 1983 c 187 § 4.] Recodified as RCW 28A.345.060 pursuant to 1990 c 33 § 4.

**28A.61.900 Termination—Sunset review—Expiration date—1983 c 187.** [1989 c 325 § 2; 1983 c 187 § 6.] Repealed by 1990 c 297 § 26 without cognizance of its recodification as RCW 28A.345.900 by 1990 c 33 § 4.

**28A.61.910 Effective date—1983 c 187.** [1983 c 187 § 8.] Recodified as RCW 28A.345.902 pursuant to 1990 c 33 § 4.

#### Chapter 28A.65

##### SCHOOL DISTRICT BUDGETS

**28A.65.300 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting.** Cross-reference section, decodified June 1990.

**28A.65.400 Definitions.** [1983 c 59 § 1; 1975-'76 2nd ex.s. c 118 § 1.] Recodified as RCW 28A.505.010 pursuant to 1990 c 33 § 4.

**28A.65.405 Districts must utilize methods of revenue and expenditure recognition.** [1983 c 59 § 2; 1980 c 18 § 1; 1975-'76 2nd ex.s. c 118 § 2.] Recodified as RCW 28A.505.020 pursuant to 1990 c 33 § 4.

**28A.65.410 District fiscal year.** [1975-'76 2nd ex.s. c 118 § 3.] Recodified as RCW 28A.505.030 pursuant to 1990 c 33 § 4.

**28A.65.415 Budget—When prepared—Contents.** [1975-'76 2nd ex.s. c 118 § 4.] Recodified as RCW 28A.505.040 pursuant to 1990 c 33 § 4.

**28A.65.420 Budget—Notice of completion and of bearing—Copies for the public—ESD review, when.** [1983 c 59 § 3; 1975-'76 2nd ex.s. c 118 § 5.] Recodified as RCW 28A.505.050 pursuant to 1990 c 33 § 4.

**28A.65.425 Budget—Hearing and adoption of—Copies filed with ESD's.** [1983 c 59 § 4; 1975-'76 2nd ex.s. c 118 § 6.] Recodified as RCW 28A.505.060 pursuant to 1990 c 33 § 4.

**28A.65.430 Budget review committee—Members—Review of budget, limitations.** [1975-'76 2nd ex.s. c 118 § 7.] Recodified as RCW 28A.505.070 pursuant to 1990 c 33 § 4.

**28A.65.435 Budget—Disposition of copies.** [1984 c 128 § 8; 1983 c 59 § 5; 1975-'76 2nd ex.s. c 118 § 8.] Recodified as RCW 28A.505.080 pursuant to 1990 c 33 § 4.

**28A.65.440 Budget—Format, classifications, mandatory.** [1983 c 59 § 6; 1975-'76 2nd ex.s. c 118 § 9.] Recodified as RCW 28A.505.090 pursuant to 1990 c 33 § 4.

**28A.65.445 Budget—Contents—Display of salaries.** [1983 c 59 § 7; 1975-'76 2nd ex.s. c 118 § 10.] Recodified as RCW 28A.505.100 pursuant to 1990 c 33 § 4.

**28A.65.450 Budget—Including receivables collectible in future years—Limitations.** [1983 c 59 § 8; 1975-'76 2nd ex.s. c 118 § 11.] Recodified as RCW 28A.505.110 pursuant to 1990 c 33 § 4.

**28A.65.455 Withholding state funds upon district noncompliance—Notice of.** [1975-'76 2nd ex.s. c 118 § 12.] Recodified as RCW 28A.505.120 pursuant to 1990 c 33 § 4.

**28A.65.460 Budget—Requirements for balancing estimated expenditures.** [1983 c 59 § 9; 1975-'76 2nd ex.s. c 118 § 13.] Recodified as RCW 28A.505.130 pursuant to 1990 c 33 § 4.

**28A.65.465 Rules and regulations for budgetary procedures—Review when superintendent determines budget irregularity—Revised budget, state board's financial plan until adoption.** [1983 c 59 § 10; 1975-'76 2nd ex.s. c 118 § 14.] Recodified as RCW 28A.505.140 pursuant to 1990 c 33 § 4.

**28A.65.470 Budgeted expenditures as appropriations—Interim expenditures—Transfer between budget classes—Liability for nonbudgeted expenditures.** [1975-'76 2nd ex.s. c 118 § 15.] Recodified as RCW 28A.505.150 pursuant to 1990 c 33 § 4.

**28A.65.475 Appropriations lapse at end of fiscal year—Exception.** [1975-'76 2nd ex.s. c 118 § 16.] Recodified as RCW 28A.505.160 pursuant to 1990 c 33 § 4.

**28A.65.480 First class school districts—Emergency or additional appropriation resolutions—Procedure.** [1984 c 128 § 9; 1983 c 59 § 11; 1975-'76 2nd ex.s. c 118 § 17.] Recodified as RCW 28A.505.170 pursuant to 1990 c 33 § 4.

**28A.65.485 Second class school districts—Additional appropriation resolutions—Procedure.** [1984 c 128 § 10; 1983 c 59 § 12; 1975-'76 2nd ex.s. c 118 § 18.] Recodified as RCW 28A.505.180 pursuant to 1990 c 33 § 4.

**28A.65.490 Program budget for distribution to the public—Contents—Scope.** [1975-'76 2nd ex.s. c 118 § 19.] Recodified as RCW 28A.505.190 pursuant to 1990 c 33 § 4.

#### Chapter 28A.66

### SCHOOL DISTRICT WARRANTS, AUDITOR'S DUTIES RELATING TO

**28A.66.010 Registering warrants—All districts.** [1975 c 43 § 27; 1973 c 111 § 2; 1969 ex.s. c 223 § 28A.66.010. Prior: 1911 c 78 § 1, part; RRS § 4864. Formerly RCW 28.66.010.] Recodified as RCW 28A.350.010 pursuant to 1990 c 33 § 4.

**28A.66.020 Registering warrants—Second class districts.** [1975 c 43 § 28; 1969 ex.s. c 223 § 28A.66.020. Prior: 1911 c 78 § 1, part; RRS § 4863. Formerly RCW 28.66.020.] Recodified as RCW 28A.350.020 pursuant to 1990 c 33 § 4.

**28A.66.030 Auditing accounts—All districts.** [1969 ex.s. c 223 § 28A.66.030. Prior: 1909 c 97 p 308 § 2; RRS § 4858. Formerly RCW 28.66.030.] Recodified as RCW 28A.350.030 pursuant to 1990 c 33 § 4.

**28A.66.040 Auditor to draw and issue warrants—Second class districts.** [1975 c 43 § 29; 1973 c 111 § 3; 1969 ex.s. c 223 § 28A.66.040. Prior: 1909 c 97 p 308 § 3; RRS § 4859. Formerly RCW 28.66.040.] Recodified as RCW 28A.350.040 pursuant to 1990 c 33 § 4.

**28A.66.050 Teacher must qualify before warrant drawn and issued or registered—All districts.** [1973 c 72 § 1; 1971 c 48 § 45; 1969 ex.s. c 223 § 28A.66.050. Prior: 1909 c 97 p 308 § 4; RRS § 4860. Formerly RCW 28.66.050.] Recodified as RCW 28A.350.050 pursuant to 1990 c 33 § 4.

**28A.66.070 Liability of auditor for warrants exceeding budget—All districts.** [1975-'76 2nd ex.s. c 118 § 31; 1969 ex.s. c 223 § 28A.66.070. Prior: 1959 c 216 § 22; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28.66.070.] Recodified as RCW 28A.350.060 pursuant to 1990 c 33 § 4.

**28A.66.080 Orders for warrants not transferable—Second class districts.** [1975 c 43 § 30; 1969 ex.s. c 223 § 28A.66.080. Prior: 1959 c 216 § 23; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28.66.080.] Recodified as RCW 28A.350.070 pursuant to 1990 c 33 § 4.

**28A.66.110 Issuance of warrants—First class districts.** Cross-reference section, decodified June 1990.

**28A.66.120 Issuance of warrants for certain political subdivisions, including second class school districts.** Cross-reference section, decodified June 1990.

**28A.66.200 Division of municipal corporations, state auditor's office, scope as affecting school districts.** Cross-reference section, decodified June 1990.

#### Chapter 28A.67

### TEACHERS—GENERAL PROVISIONS

**28A.67.010 Qualifications—Certificate or permit required.** [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28.67.010.] Recodified as RCW 28A.405.010 pursuant to 1990 c 33 § 4.

**28A.67.015 Qualifications—Professional certification not to be required of superintendent, deputy or assistant superintendents.** Cross-reference section, decodified June 1990.

**28A.67.020 Qualifications—Citizenship requirement—Permits for nonimmigrant aliens or aliens—Standard certificate for aliens, when—Oath required.** [1985 c 379 § 5; 1977 ex.s. c 340 § 1; 1969 ex.s. c 223 § 28A.67.020. Prior: 1949 c 32 § 1; 1919 c 38 § 1; Rem. Supp. 1949 § 4845. Formerly RCW 28.67.020.] Recodified as RCW 28A.405.020 pursuant to 1990 c 33 § 4.

**28A.67.030 Disqualification for failure to emphasize patriotism.** [1969 ex.s. c 223 § 28A.67.030. Prior: 1919 c 38 § 2; RRS § 4846.

Formerly RCW 28.67.030.] Recodified as RCW 28A.405.040 pursuant to 1990 c 33 § 4.

**28A.67.035 Noncompliance with RCW 28A.67.020 and 28A.67.030—Penalties.** [1969 ex.s. c 223 § 28A.67.035. Prior: 1919 c 38 § 3; RRS § 4847. Formerly RCW 28.67.035, 28.67.120.] Recodified as RCW 28A.405.050 pursuant to 1990 c 33 § 4.

**28A.67.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure.** [1975 1st ex.s. c 275 § 132; 1971 c 48 § 49; 1969 ex.s. c 223 § 28A.67.060. Prior: (i) 1909 c 97 p 307 § 4; RRS § 4850; prior: 1899 c 142 § 11; 1897 c 118 § 54; 1886 p 18 § 47. Formerly RCW 28.67.060. (ii) 1909 c 97 p 360 § 8; RRS § 5051; prior: 1903 c 156 § 8; 1897 c 118 § 166. Formerly RCW 28.87.150.] Recodified as RCW 28A.405.060 pursuant to 1990 c 33 § 4.

**28A.67.065 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.** [1985 c 420 § 6; 1975-'76 2nd ex.s. c 114 § 3; 1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Like section formerly RCW 28.67.065.] Recodified as RCW 28A.405.100 pursuant to 1990 c 33 § 4.

**28A.67.066 Annual salary schedules as basis for salaries of certificated employees.** [1969 ex.s. c 283 § 1. Formerly RCW 28.67.066.] Recodified as RCW 28A.405.200 pursuant to 1990 c 33 § 4.

**28A.67.070 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Nonrenewal due to enrollment decline or revenue loss—Notice—Opportunity for hearing.** [1983 c 83 § 1; 1983 c 56 § 11; 1975-'76 2nd ex.s. c 114 § 4; 1975 1st ex.s. c 275 § 133; 1973 c 49 § 2; 1970 ex.s. c 15 § 16. Prior: 1969 ex.s. c 176 § 143; 1969 ex.s. c 34 § 12; 1969 ex.s. c 15 § 2; 1969 ex.s. c 223 § 28A.67.070; prior: 1961 c 241 § 1; 1955 c 68 § 3; prior: (i) 1909 c 97 p 307 § 5; 1897 c 118 § 55; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; Code 1881 § 3200; RRS § 4851. (ii) 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.67.070.] Recodified as RCW 28A.405.210 pursuant to 1990 c 33 § 4.

**28A.67.072 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure.** [1975-'76 2nd ex.s. c 114 § 1.] Recodified as RCW 28A.405.220 pursuant to 1990 c 33 § 4.

**28A.67.073 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure.** [1975-'76 2nd ex.s. c 114 § 9.] Recodified as RCW 28A.405.230 pursuant to 1990 c 33 § 4.

**28A.67.074 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.** [1985 c 341 § 15; 1969 ex.s. c 283 § 2. Formerly RCW 28.67.074.] Recodified as RCW 28A.405.240 pursuant to 1990 c 33 § 4.

**28A.67.081 Direct judicial appeal in lieu of board hearing provided in RCW 28A.67.070.** Cross-reference section, decodified June 1990.

**28A.67.085 Sick leave.** Cross-reference section, decodified June 1990.

**28A.67.086 Seniority and leave benefits, transfers between school districts.** Cross-reference section, decodified June 1990.

**28A.67.095 Payroll deductions authorized for certificated employees—When.** [1972 ex.s. c 39 § 1.] Recodified as RCW 28A.405.400 pursuant to 1990 c 33 § 4.

**28A.67.096 Payroll deductions authorized for certificated employees—Savings.** [1972 ex.s. c 39 § 2.] Recodified as RCW 28A.405.410 pursuant to 1990 c 33 § 4.

**28A.67.110 Must teach morality and patriotism.** [1969 ex.s. c 223 § 28A.67.110. Prior: 1909 c 97 p 308 § 8; RRS § 4855; prior: 1897 c 118 § 58; 1890 p 371 § 42; 1886 p 19 § 50; Code 1881 § 3203. Formerly RCW 28.67.110.] Recodified as RCW 28A.405.030 pursuant to 1990 c 33 § 4.

**28A.67.115 School improvement and research projects by educational employees—Grants—Advisory committee—Information clearinghouse.** [1985 c 349 § 4.] Recodified as RCW 28A.625.300 pursuant to 1990 c 33 § 4.

**28A.67.120 Career ladders—Legislative intent to investigate.** [1985 c 349 § 3.] Recodified as RCW 28A.630.800 pursuant to 1990 c 33 § 4.

**28A.67.200 Penalties generally applicable to.** Cross-reference section, decodified June 1990.

**28A.67.205 Evaluations—Legislative findings.** [1985 c 420 § 1.] Recodified as RCW 28A.405.110 pursuant to 1990 c 33 § 4.

**28A.67.210 Training for evaluators—Superintendent of public instruction to provide technical assistance.** [1985 c 420 § 3.] Recodified as RCW 28A.405.120 pursuant to 1990 c 33 § 4.

**28A.67.215 Training in evaluation procedures required.** [1985 c 420 § 4.] Recodified as RCW 28A.405.130 pursuant to 1990 c 33 § 4.

**28A.67.220 In-service training for teacher may be required after evaluation.** [1985 c 420 § 5.] Recodified as RCW 28A.405.140 pursuant to 1990 c 33 § 4.

**28A.67.225 Minimum standards for evaluations—Superintendent of public instruction to develop minimum procedural standards and programs—Establishment and implementation of programs—Reports.** [1988 c 241 § 1; 1986 c 73 § 1; 1985 c 420 § 7.] Recodified as RCW 28A.405.150 pursuant to 1990 c 33 § 4.

**28A.67.230 Implementation of minimum standards and model evaluation programs—Superintendent of public instruction to assist.** [1985 c 420 § 8.] Recodified as RCW 28A.405.160 pursuant to 1990 c 33 § 4.

**28A.67.240 Teacher assistance program—Provision for mentor teachers.** [1987 c 507 § 1; 1985 c 399 § 1.] Recodified as RCW 28A.405.450 pursuant to 1990 c 33 § 4.

**28A.67.250 Minority teacher recruitment program—Intent.** [1989 c 146 § 1.] Recodified as RCW 28A.305.260 pursuant to 1990 c 33 § 4.

**28A.67.260 Minority teacher recruitment program.** [1989 c 146 § 2.] Recodified as RCW 28A.305.270 pursuant to 1990 c 33 § 4.

**28A.67.270 Minority teacher recruitment program—Grants.** [1989 c 146 § 3.] Recodified as RCW 28A.300.180 pursuant to 1990 c 33 § 4.

**28A.67.300 School locker searches—Findings.** [1989 c 271 § 244.] Recodified as RCW 28A.600.210 pursuant to 1990 c 33 § 4.

**28A.67.310 School locker searches—No expectation of privacy.** [1989 c 271 § 245.] Recodified as RCW 28A.600.220 pursuant to 1990 c 33 § 4.

**28A.67.320 School locker searches—Authorization—Limitations.** [1989 c 271 § 246.] Recodified as RCW 28A.600.230 pursuant to 1990 c 33 § 4.

**28A.67.330 School locker searches—Notice and reasonable suspicion requirements.** [1989 c 271 § 247.] Recodified as RCW 28A.600.240 pursuant to 1990 c 33 § 4.

**28A.67.900 Certain certificated employees exempt from chapter provisions.** [1972 ex.s. c 142 § 3.] Recodified as RCW 28A.405.900 pursuant to 1990 c 33 § 4.

#### Chapter 28A.70

### CERTIFICATION OF PERSONNEL—PREPARATION REQUIREMENTS

**28A.70.005 Certification—State board duty—Rules and regulations—Background check—Superintendent of public instruction as administrator.** [1988 c 172 § 3; 1988 c 97 § 1; 1987 c 486 § 8; 1975-'76 2nd ex.s. c 92 § 2; 1969 ex.s. c 223 § 28A.70.005.] Recodified as RCW 28A.410.010 pursuant to 1990 c 33 § 4.

**28A.70.010 Exit examination for candidates for certification—Contents—Rules.** [1987 c 525 § 203.] Recodified as RCW 28A.410.030 pursuant to 1990 c 33 § 4.

**28A.70.021 State board of education—Approval of courses—Issuance of certificates.** Cross-reference section, decodified June 1990.

**28A.70.022 Requirements for admission to teacher preparation programs—Exemptions—Rules.** Cross-reference section, decodified June 1990.

**28A.70.030 Professional certification not to be required of superintendent, deputy or assistant superintendents.** Cross-reference section, decodified June 1990.

**28A.70.040 Initial-level certificates—Requirements—Renewal, enrollment in masters degree program—Time limits.** [1989 c 402 § 1; 1989 c 29 § 1; 1987 c 525 § 212.] Recodified as RCW 28A.410.040 pursuant to 1990 c 33 § 4.

**28A.70.042 Professional-level certificate—Masters degree or equivalency required—Rules.** [1989 c 29 § 2; 1987 c 525 § 215.] Recodified as RCW 28A.410.050 pursuant to 1990 c 33 § 4.

**28A.70.110 Fee for certification—Disposition.** [(1) 1975-'76 2nd ex.s. c 92 § 3. (2) 1975-'76 2nd ex.s. c 15 § 17. Prior: 1975 1st ex.s. c 275 § 134; 1975 1st ex.s. c 192 § 1; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110; prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28.70.110, 28.70.120.] Recodified as RCW 28A.410.060 pursuant to 1990 c 33 § 4.

**28A.70.130 Registration of certificates.** [1983 c 56 § 12; 1975-'76 2nd ex.s. c 92 § 4; 1975 1st ex.s. c 275 § 135; 1971 c 48 § 50; 1969 ex.s. c 223 § 28A.70.130. Prior: 1909 c 97 p 338 § 11; RRS § 4976; prior: 1897 c 118 § 147. Formerly RCW 28.70.130.] Recodified as RCW 28A.410.070 pursuant to 1990 c 33 § 4.

**28A.70.160 Revocation or suspension of certificate or permit to teach—Mandatory revocation for crimes against children.** [1989 c 320 § 1; 1975 1st ex.s. c 275 § 137; 1974 ex.s. c 55 § 2; 1971 c 48 § 51; 1969 ex.s. c 223 § 28A.70.160. Prior: 1909 c 97 p 345 § 1; RRS § 4992; prior: 1897 c 118 § 148. Formerly RCW 28.70.160.] Recodified as RCW 28A.410.090 pursuant to 1990 c 33 § 4.

**28A.70.170 Revocation of authority to teach—Hearings and appeals.** [1975 1st ex.s. c 275 § 138; 1971 c 48 § 52; 1969 ex.s. c 223 § 28A.70.170. Prior: 1909 c 97 p 346 § 3; RRS § 4994. Formerly RCW 28.70.170.] Recodified as RCW 28A.410.100 pursuant to 1990 c 33 § 4.

**28A.70.180 Limitation on reinstatement after revocation—Reinstatement prohibited for crimes against children.** [1989 c 320 § 2; 1969 ex.s. c 223 § 28A.70.180. Prior: 1909 c 97 p 346 § 2; RRS § 4993. Formerly RCW 28.70.180.] Recodified as RCW 28A.410.110 pursuant to 1990 c 33 § 4.

**28A.70.300 Traffic safety education course teacher to be certified.** Cross-reference section, decodified June 1990.

**28A.70.310 False reports of attendance as grounds for forfeiture or revocation of certificate.** Cross-reference section, decodified June 1990.

**28A.70.320 Director's connivance to employ uncertified teachers—Liability.** Cross-reference section, decodified June 1990.

**28A.70.395 Student teaching—Intent.** [1989 c 253 § 1.] Recodified as RCW 28A.410.140 pursuant to 1990 c 33 § 4.

**28A.70.400 Student teaching pilot program—Requirements—Rules—Advisory group.** [1989 c 253 § 2; 1987 c 525 § 205.] Recodified as RCW 28A.410.150 pursuant to 1990 c 33 § 4.

**28A.70.402 Student teaching pilot program—Definition.** [1987 c 525 § 206.] Recodified as RCW 28A.410.160 pursuant to 1990 c 33 § 4.

**28A.70.404 Student teaching pilot program—Grants—Applications—Criteria.** [1987 c 525 § 207.] Recodified as RCW 28A.410.170 pursuant to 1990 c 33 § 4.

**28A.70.406 Student teaching pilot program—Compensation and salary lid compliance.** [1987 c 525 § 208.] Recodified as RCW 28A.410.180 pursuant to 1990 c 33 § 4.

**28A.70.408 Student teaching pilot program—Report to legislature.** [1989 c 253 § 3; 1987 c 525 § 209.] Recodified as RCW 28A.410.190 pursuant to 1990 c 33 § 4.

**28A.70.900 Standards for certification effective in 1978—Applicants completing requirements—Time period to apply.** [1987 c 525 § 218.] Recodified as RCW 28A.410.900 pursuant to 1990 c 33 § 4.

## Chapter 28A.71

## TEACHERS' INSTITUTES, WORKSHOPS AND OTHER IN-SERVICE TRAINING

**28A.71.100 Authorized—Support—Accounting.** [1975-'76 2nd ex.s. c 15 § 18. Prior: 1975 1st ex.s. c 275 § 139; 1975 1st ex.s. c 192 § 2; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100; prior: 1965 c 139 § 21. Formerly RCW 28.71.100.] Recodified as RCW 28A.415.010 pursuant to 1990 c 33 § 4.

**28A.71.110 Credit on salary schedule for approved in-service training and continuing education.** [1987 c 519 § 1.] Recodified as RCW 28A.415.020 pursuant to 1990 c 33 § 4.

**28A.71.200 In-Service Training Act of 1977—Purpose.** [1977 ex.s. c 189 § 1.] Recodified as RCW 28A.415.030 pursuant to 1990 c 33 § 4.

**28A.71.210 In-Service Training Act of 1977—Administration of funds—Rules—Requirements for local districts—In-service training task force.** [1987 c 525 § 301; 1985 c 214 § 1; 1979 c 149 § 10; 1977 ex.s. c 189 § 2.] Recodified as RCW 28A.415.040 pursuant to 1990 c 33 § 4.

**28A.71.220 In-service training programs—Instruction on teaching skills to children to resist and report abuse.** [1985 c 419 § 2.] Recodified as RCW 28A.415.050 pursuant to 1990 c 33 § 4.

## Chapter 28A.85

## SEXUAL EQUALITY MANDATED FOR PUBLIC SCHOOLS

**28A.85.010 Purpose—Discrimination prohibited.** [1975 1st ex.s. c 226 § 1.] Recodified as RCW 28A.640.010 pursuant to 1990 c 33 § 4.

**28A.85.020 Regulations, guidelines to eliminate discrimination—Scope.** [1975 1st ex.s. c 226 § 2.] Recodified as RCW 28A.640.020 pursuant to 1990 c 33 § 4.

**28A.85.030 Administration.** [1975 1st ex.s. c 226 § 3.] Recodified as RCW 28A.640.030 pursuant to 1990 c 33 § 4.

**28A.85.040 Civil relief for violations.** [1975 1st ex.s. c 226 § 4.] Recodified as RCW 28A.640.040 pursuant to 1990 c 33 § 4.

**28A.85.050 Enforcement—Superintendent's orders, scope.** [1975 1st ex.s. c 226 § 5.] Recodified as RCW 28A.640.050 pursuant to 1990 c 33 § 4.

**28A.85.900 Chapter supplementary.** [1975 1st ex.s. c 226 § 6.] Recodified as RCW 28A.640.900 pursuant to 1990 c 33 § 4.

## Chapter 28A.87

## OFFENSES RELATING TO SCHOOLS, SCHOOL PERSONNEL—PENALTIES

**28A.87.010 Abusing or insulting teachers, liability for—Penalty.** [1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28.87.010.] Recodified as RCW 28A.635.010 pursuant to 1990 c 33 § 4.

**28A.87.020 Attendance, false reports of—Penalty—Pupils excused from examinations may be reported.** [1969 ex.s. c 223 § 28A.87.020. Prior: 1909 c 97 p 361 § 13; RRS § 5056; prior: 1903 c 156 § 13. Formerly RCW 28.87.020.] Recodified as RCW 28A.410.130 pursuant to 1990 c 33 § 4.

**28A.87.041 Compulsory attendance act—Superintendent's report—Penalty for false or failure to report.** Cross-reference section, decodified June 1990.

**28A.87.055 Wilfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.** [1981 c 36 § 1; 1975-'76 2nd ex.s. c 100 § 1.] Recodified as RCW 28A.635.020 pursuant to 1990 c 33 § 4.

**28A.87.060 Disturbing school, school activities or meetings—Penalty.** [1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28.87.060.] Recodified as RCW 28A.635.030 pursuant to 1990 c 33 § 4.

**28A.87.065 Threats to bomb or injure school buildings—Penalty.** Cross-reference section, decodified June 1990.

**28A.87.070 Examination questions—Disclosing—Penalty.** [1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28.87.070.] Recodified as RCW 28A.635.040 pursuant to 1990 c 33 § 4.

**28A.87.090 Certain corrupt practices of school officials—Penalty.** [1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28.87.090.] Recodified as RCW 28A.635.050 pursuant to 1990 c 33 § 4.

**28A.87.120 Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected.** [1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28.87.120.] Recodified as RCW 28A.635.060 pursuant to 1990 c 33 § 4.

**28A.87.130 Property, failure of officials or employees to account for—Mutilation by—Penalties.** [1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28.87.130, part.] Recodified as RCW 28A.635.070 pursuant to 1990 c 33 § 4.

**28A.87.135 Director's connivance to employ uncertified teachers—Liability.** [1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28.87.130, part, 28.87.160.] Recodified as RCW 28A.635.080 pursuant to 1990 c 33 § 4.

**28A.87.151 Courses of study and regulations—Enforcement—Withholding salary warrant for failure.** Cross-reference section, decodified June 1990.

**28A.87.181 United States flag—Procurement, display, exercises—National anthem—Noncompliance, penalty.** Cross-reference section, decodified June 1990.

**28A.87.220 Educational institutions, discrimination because of race, color or creed—Penalty.** Cross-reference section, decodified June 1990.

**28A.87.225 Students carrying dangerous weapons on school premises—Penalty—Exceptions.** Cross-reference section, decodified June 1990.

**28A.87.230 Interfering by force or violence with any administrator, teacher, classified employee, or student unlawful.** [1988 c 2 § 1; 1971 c 45 § 3.] Recodified as RCW 28A.635.090 pursuant to 1990 c 33 § 4.

**28A.87.231 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.** [1988 c 2 § 2; 1971 c 45 § 4.] Recodified as RCW 28A.635.100 pursuant to 1990 c 33 § 4.

**28A.87.232 Violations under RCW 28A.87.230 and 28A.87.231—Disciplinary authority exception.** [1988 c 2 § 3; 1971 c 45 § 5.] Recodified as RCW 28A.635.110 pursuant to 1990 c 33 § 4.

**28A.87.233 Violations under RCW 28A.87.230 and 28A.87.231—Penalty.** [1971 c 45 § 6.] Recodified as RCW 28A.635.120 pursuant to 1990 c 33 § 4.

## Chapter 28A.88

## APPEALS FROM ACTION OR NONACTION OF SCHOOL OFFICIALS AND SCHOOL BOARDS

**28A.88.010 Appeals—Notice of—Scope—Time limitation.** [1971 ex.s. c 282 § 40; 1969 ex.s. c 34 § 17; 1969 ex.s. c 223 § 28A.88.010. Prior: 1961 c 241 § 9; 1909 c 97 p 362 § 1; RRS § 5064. Formerly RCW 28.88.010.] [SLC-RO-1.] Recodified as RCW 28A.645.010 pursuant to 1990 c 33 § 4.

**28A.88.013 Transcript filed, certified.** [1971 ex.s. c 282 § 41.] Recodified as RCW 28A.645.020 pursuant to 1990 c 33 § 4.

**28A.88.015** Appeal to be heard de novo and expeditiously. [1971 ex.s. c 282 § 42.] Recodified as RCW 28A.645.030 pursuant to 1990 c 33 § 4.

**28A.88.085** Organization, reorganization of school districts, property adjustments, appeals from. Cross-reference section, decodified June 1990.

**28A.88.090** Certified copy of decision to county assessor when school district boundaries changed. [1969 ex.s. c 223 § 28A.88.090. Prior: 1909 c 97 p 364 § 8; RRS § 5071. Formerly RCW 28A.88.090.] Recodified as RCW 28A.645.040 pursuant to 1990 c 33 § 4.

#### Chapter 28A.92

##### COMPACT FOR EDUCATION

**28A.92.010** Compact entered into—Terms. [1969 ex.s. c 223 § 28A.92.010. Prior: 1967 c 83 § 1. Formerly RCW 28.92.010.] Recodified as RCW 28A.695.010 pursuant to 1990 c 33 § 4.

**28A.92.020** State representation on education commission—Members, both designated and appointed. [1969 ex.s. c 223 § 28A.92.020. Prior: 1967 c 83 § 2. Formerly RCW 28.92.020.] Recodified as RCW 28A.695.020 pursuant to 1990 c 33 § 4.

**28A.92.030** State representation on education commission—Terms of appointed members—Filling vacancies. [1980 c 87 § 7; 1969 ex.s. c 223 § 28A.92.030. Prior: 1967 c 83 § 3. Formerly RCW 28.92.030.] Recodified as RCW 28A.695.030 pursuant to 1990 c 33 § 4.

**28A.92.040** State representation on education commission—Chairman—Cooperation with other entities—Employees. [1969 ex.s. c 223 § 28A.92.040. Prior: 1967 c 83 § 4. Formerly RCW 28.92.040.] Recodified as RCW 28A.695.040 pursuant to 1990 c 33 § 4.

**28A.92.050** State representation on education commission—Payment of travel expenses of members—Limitations. [1984 c 287 § 61; 1975-'76 2nd ex.s. c 34 § 71; 1969 ex.s. c 223 § 28A.92.050. Prior: 1967 c 83 § 5. Formerly RCW 28.92.050.] Recodified as RCW 28A.695.050 pursuant to 1990 c 33 § 4.

**28A.92.060** State representation on education commission—Grant of powers to commissioners. [1969 ex.s. c 223 § 28A.92.060. Prior: 1967 c 83 § 6. Formerly RCW 28.92.060.] Recodified as RCW 28A.695.060 pursuant to 1990 c 33 § 4.

**28A.92.070** State officers to aid in implementation of compact. [1969 ex.s. c 223 § 28A.92.070. Prior: 1967 c 83 § 7. Formerly RCW 28.92.070.] Recodified as RCW 28A.695.070 pursuant to 1990 c 33 § 4.

**28A.92.080** Bylaws to be filed with secretary of state. [1969 ex.s. c 223 § 28A.92.080. Prior: 1967 c 83 § 8. Formerly RCW 28.92.080.] Recodified as RCW 28A.695.080 pursuant to 1990 c 33 § 4.

#### Chapter 28A.93

##### INTERSTATE AGREEMENT ON QUALIFICATIONS OF EDUCATIONAL PERSONNEL

**28A.93.010** Compact entered into—Terms. [1969 ex.s. c 283 § 4. Formerly RCW 28.93.010.] Recodified as RCW 28A.690.010 pursuant to 1990 c 33 § 4.

**28A.93.020** Superintendent as "designated state official", compact administrator—Board to approve text of contracts. [1969 ex.s. c 283 § 5. Formerly RCW 28.93.020.] Recodified as RCW 28A.690.020 pursuant to 1990 c 33 § 4.

**28A.93.030** True copies of contracts filed in office of superintendent—Publication. [1969 ex.s. c 283 § 6. Formerly RCW 28.93.030.] Recodified as RCW 28A.690.030 pursuant to 1990 c 33 § 4.

#### Chapter 28A.97

##### EDUCATIONAL CLINICS

**28A.97.010** "Educational clinic", "basic academic skills", defined—Certification as educational clinic and withdrawal thereof. [1983 c 3 § 38; 1977 ex.s. c 341 § 1.] Recodified as RCW 28A.205.010 pursuant to 1990 c 33 § 4.

**28A.97.020** Reimbursement only for eligible common school dropouts. [1979 ex.s. c 174 § 1; 1977 ex.s. c 341 § 2.] Recodified as RCW 28A.205.020 pursuant to 1990 c 33 § 4.

**28A.97.030** Reentry of prior dropouts into common schools, rules—Eligibility for GED test. [1977 ex.s. c 341 § 3.] Recodified as RCW 28A.205.030 pursuant to 1990 c 33 § 4.

**28A.97.040** Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records. [1979 ex.s. c 174 § 2; 1977 ex.s. c 341 § 4.] Recodified as RCW 28A.205.040 pursuant to 1990 c 33 § 4.

**28A.97.050** Rules and regulations—Legislative review of criteria utilized for reimbursement purposes. [1977 ex.s. c 341 § 5.] Recodified as RCW 28A.205.050 pursuant to 1990 c 33 § 4.

**28A.97.110** Report to legislature by superintendent of public instruction—Contents—Update. [1985 c 434 § 2.] Recodified as RCW 28A.205.060 pursuant to 1990 c 33 § 4.

**28A.97.120** Allocation of funds—Criteria—Duties of superintendent. [1985 c 434 § 3.] Recodified as RCW 28A.205.070 pursuant to 1990 c 33 § 4.

**28A.97.125** Legislative findings—Distribution of funds—Cooperation with school districts. [1987 c 518 § 220.] Recodified as RCW 28A.205.080 pursuant to 1990 c 33 § 4.

**28A.97.130** Inclusion of educational clinics program in biennial budget request—Quarterly plans—Funds—Payment. [1985 c 434 § 4.] Recodified as RCW 28A.205.090 pursuant to 1990 c 33 § 4.

#### Chapter 28A.100

##### SPECIAL PROGRAMS FOR IMPROVING THE SCHOOL SYSTEM

**28A.100.017** Field tests of educational outcomes and related measures—Report. [1987 c 401 § 7.] Recodified as RCW 28A.630.010 pursuant to 1990 c 33 § 4.

**28A.100.018** Rules. [1987 c 401 § 8.] Recodified as RCW 28A.630.020 pursuant to 1990 c 33 § 4.

**28A.100.019** Use of educational outcomes and related measures as part of a schools for the twenty-first century pilot project. [1987 c 401 § 9.] Recodified as RCW 28A.630.030 pursuant to 1990 c 33 § 4.

**28A.100.020** Application for grants. [1987 c 401 § 10.] Recodified as RCW 28A.630.040 pursuant to 1990 c 33 § 4.

**28A.100.025** Expiration dates—1987 c 401. [1987 c 401 § 11.] Recodified as RCW 28A.630.090 pursuant to 1990 c 33 § 4.

**28A.100.026** Severability—1987 c 401. [1987 c 401 § 13.] Recodified as RCW 28A.630.091 pursuant to 1990 c 33 § 4.

**28A.100.030** Program established—Goals—Intent. [1987 c 525 § 101.] Recodified as RCW 28A.630.100 pursuant to 1990 c 33 § 4.

**28A.100.032** Duties of state board of education. [1987 c 525 § 102.] Recodified as RCW 28A.630.110 pursuant to 1990 c 33 § 4.

**28A.100.034** Task force—Duties—Members—Travel expenses. [1987 c 525 § 103.] Recodified as RCW 28A.630.120 pursuant to 1990 c 33 § 4.

**28A.100.036** Approval of projects by state board—Recommendations by task force. [1987 c 525 § 104.] Recodified as RCW 28A.630.130 pursuant to 1990 c 33 § 4.

**28A.100.038** Applications—Proposed plan. [1988 c 1 § 1; 1987 c 525 § 105.] Recodified as RCW 28A.630.140 pursuant to 1990 c 33 § 4.

**28A.100.040** Selection of projects. [1987 c 525 § 106.] Recodified as RCW 28A.630.150 pursuant to 1990 c 33 § 4.

**28A.100.042** Administration of program and grant of funding by superintendent—Distribution of grants—Length of projects. [1987 c 525 § 107.] Recodified as RCW 28A.630.160 pursuant to 1990 c 33 § 4.

**28A.100.044 Gifts, grants, and contributions for program—Schools for the twenty-first century pilot program account.** [1987 c 525 § 108.] Recodified as RCW 28A.630.170 pursuant to 1990 c 33 § 4.

**28A.100.048 Waivers from certain statutes or rules.** [1987 c 525 § 109.] Recodified as RCW 28A.630.180 pursuant to 1990 c 33 § 4.

**28A.100.050 Rules prohibited from being waived—Procedure for requesting waiver of federal regulations.** [1987 c 525 § 110.] Recodified as RCW 28A.630.190 pursuant to 1990 c 33 § 4.

**28A.100.052 Resources and support for participant school districts—Use of colleges and universities—Staff development.** [1987 c 525 § 111.] Recodified as RCW 28A.630.200 pursuant to 1990 c 33 § 4.

**28A.100.054 Rules.** [1987 c 525 § 112.] Recodified as RCW 28A.630.210 pursuant to 1990 c 33 § 4.

**28A.100.056 Reports.** [1987 c 525 § 113.] Recodified as RCW 28A.630.220 pursuant to 1990 c 33 § 4.

**28A.100.058 Information on projects—Superintendent's duties through state clearinghouse for education information.** [1987 c 525 § 114.] Recodified as RCW 28A.630.230 pursuant to 1990 c 33 § 4.

**28A.100.068 Expiration date—1987 c 525 §§ 101–114.** [1987 c 525 § 115.] Recodified as RCW 28A.630.290 pursuant to 1990 c 33 § 4.

**28A.100.080 Increased curriculum programs and opportunities.** [1988 c 268 § 2.] Recodified as RCW 28A.340.010 pursuant to 1990 c 33 § 4.

**28A.100.082 Eligibility—Participation.** [1988 c 268 § 3.] Recodified as RCW 28A.340.020 pursuant to 1990 c 33 § 4.

**28A.100.084 Application—Review by the superintendent of public instruction.** [1988 c 268 § 4.] Recodified as RCW 28A.340.030 pursuant to 1990 c 33 § 4.

**28A.100.086 Adoption of salary schedules—Computation of fringe benefits.** [1988 c 268 § 5.] Recodified as RCW 28A.340.040 pursuant to 1990 c 33 § 4.

**28A.100.088 Report to the superintendent of public instruction—Report to the legislature.** [1988 c 268 § 7.] Recodified as RCW 28A.340.050 pursuant to 1990 c 33 § 4.

**28A.100.090 Rules.** [1988 c 268 § 8.] Recodified as RCW 28A.340.060 pursuant to 1990 c 33 § 4.

**28A.100.092 Allocation of state funds for technical assistance—Contracting with agencies for technical assistance.** [1988 c 268 § 9.] Recodified as RCW 28A.340.070 pursuant to 1990 c 33 § 4.

#### Chapter 28A.120

#### ASSISTANCE PROGRAMS FOR STUDENTS

**28A.120.010 Intent.** [1989 c 233 § 1; 1987 c 478 § 1.] Recodified as RCW 28A.165.010 pursuant to 1990 c 33 § 4.

**28A.120.012 Program created.** [1987 c 478 § 2.] Recodified as RCW 28A.165.020 pursuant to 1990 c 33 § 4.

**28A.120.014 Definitions.** [1987 c 478 § 3.] Recodified as RCW 28A.165.030 pursuant to 1990 c 33 § 4.

**28A.120.016 Application for state funds—Needs assessment—Plan.** [1989 c 233 § 2; 1987 c 478 § 4.] Recodified as RCW 28A.165.040 pursuant to 1990 c 33 § 4.

**28A.120.018 Identification of students—Coordination of use of funds.** [1987 c 478 § 5.] Recodified as RCW 28A.165.050 pursuant to 1990 c 33 § 4.

**28A.120.020 Services or activities under program.** [1989 c 233 § 3; 1987 c 478 § 6.] Recodified as RCW 28A.165.060 pursuant to 1990 c 33 § 4.

**28A.120.022 Eligibility for funds—Distribution of funds.** [1987 c 478 § 7.] Recodified as RCW 28A.165.070 pursuant to 1990 c 33 § 4.

**28A.120.024 Monitoring.** [1987 c 478 § 8.] Recodified as RCW 28A.165.080 pursuant to 1990 c 33 § 4.

**28A.120.026 Rules.** [1987 c 478 § 9.] Recodified as RCW 28A.165.090 pursuant to 1990 c 33 § 4.

**28A.120.030 Program established—Goals.** [1987 c 518 § 205.] Recodified as RCW 28A.170.010 pursuant to 1990 c 33 § 4.

**28A.120.032 Rules—Grants—Program areas eligible for funding.** [1989 c 233 § 5; 1987 c 518 § 206.] Recodified as RCW 28A.170.020 pursuant to 1990 c 33 § 4.

**28A.120.034 Application for funding—Procedure.** [1987 c 518 § 207.] Recodified as RCW 28A.170.030 pursuant to 1990 c 33 § 4.

**28A.120.036 Application for continued funding—Contents.** [1987 c 518 § 208.] Recodified as RCW 28A.170.040 pursuant to 1990 c 33 § 4.

**28A.120.038 Advisory committee—Members—Duties.** [1987 c 518 § 209.] Recodified as RCW 28A.170.050 pursuant to 1990 c 33 § 4.

**28A.120.040 Information about programs and penalties—Duties of superintendent through state clearinghouse for education information.** [1989 c 271 § 113; 1987 c 518 § 210.] Recodified as RCW 28A.170.060 pursuant to 1990 c 33 § 4.

**28A.120.050 Conflict with federal laws—RCW 28A.120.032 through 28A.120.040.** [1987 c 518 § 211.] Recodified as RCW 28A.170.070 pursuant to 1990 c 33 § 4.

**28A.120.060 Intent.** [1987 c 518 § 213.] Recodified as RCW 28A.175.020 pursuant to 1990 c 33 § 4.

**28A.120.062 Grants for program development—Distribution of funds.** [1989 c 209 § 1; 1987 c 518 § 214.] Recodified as RCW 28A.175.030 pursuant to 1990 c 33 § 4.

**28A.120.064 Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of grants.** [1989 c 209 § 2; 1987 c 518 § 215.] Recodified as RCW 28A.175.040 pursuant to 1990 c 33 § 4.

**28A.120.068 Rules.** [1987 c 518 § 217.] Recodified as RCW 28A.175.050 pursuant to 1990 c 33 § 4.

**28A.120.070 Task force—Members—Purpose.** [1987 c 518 § 218.] Recodified as RCW 28A.175.060 pursuant to 1990 c 33 § 4.

**28A.120.072 Information about programs—Duties of superintendent through state clearinghouse for education information.** [1987 c 518 § 219.] Recodified as RCW 28A.175.070 pursuant to 1990 c 33 § 4.

**28A.120.080 Findings—Intent.** [1989 c 271 § 310.] Recodified as RCW 28A.170.075 pursuant to 1990 c 33 § 4.

**28A.120.082 Grants—Substance abuse intervention.** [1989 c 271 § 311.] Recodified as RCW 28A.170.080 pursuant to 1990 c 33 § 4.

**28A.120.084 Selection of grant recipients—Program rules.** [1989 c 271 § 312.] Recodified as RCW 28A.170.090 pursuant to 1990 c 33 § 4.

**28A.120.086 Promotion of parent and community involvement—Program review.** [1989 c 271 § 313.] Recodified as RCW 28A.170.100 pursuant to 1990 c 33 § 4.

**28A.120.090 High school programs encouraged.** [1989 c 233 § 7.] Recodified as RCW 28A.175.080 pursuant to 1990 c 33 § 4.

**28A.120.092 Attendance at nonresident high schools—Expiration of section.** [1989 c 233 § 8.] Recodified as RCW 28A.175.090 pursuant to 1990 c 33 § 4.

**28A.120.094 Prevention of learning problems and academic delays—Pilot program—Expiration of section.** [1989 c 233 § 13.] Recodified as RCW 28A.630.050 pursuant to 1990 c 33 § 4.

**28A.120.096 Prevention of learning problems and academic delays—Study—Expiration of section.** [1989 c 233 § 14.] Recodified as RCW 28A.630.060 pursuant to 1990 c 33 § 4.

**28A.120.800 Rules.** [1989 c 233 § 17.] Recodified as RCW 28A.630.810 pursuant to 1990 c 33 § 4.

## Chapter 28A.125

## INTERNATIONAL EDUCATION PROGRAMS

**28A.125.010** Legislative findings—Intent. [1987 c 349 § 1.] Recodified as RCW 28A.630.300 pursuant to 1990 c 33 § 4.

**28A.125.020** Advisory committee—Development of model curriculum or curriculum guidelines—Study about resource center. [1987 c 349 § 2.] Recodified as RCW 28A.630.310 pursuant to 1990 c 33 § 4.

**28A.125.030** Grant program—Application procedure. [1987 c 349 § 3.] Recodified as RCW 28A.630.320 pursuant to 1990 c 33 § 4.

**28A.125.040** Rules. [1987 c 349 § 4.] Recodified as RCW 28A.630.330 pursuant to 1990 c 33 § 4.

**28A.125.100** Report to legislature. [1987 c 349 § 5.] Recodified as RCW 28A.630.340 pursuant to 1990 c 33 § 4.

**28A.125.900** Severability—1987 c 349. [1987 c 349 § 7.] Recodified as RCW 28A.630.390 pursuant to 1990 c 33 § 4.

## Chapter 28A.130

## PROGRAMS FOR PARENTS

**28A.130.010** Intent—Short title. [1987 c 518 § 104.] Recodified as RCW 28A.610.010 pursuant to 1990 c 33 § 4.

**28A.130.012** Definitions. [1987 c 518 § 105.] Recodified as RCW 28A.610.020 pursuant to 1990 c 33 § 4.

**28A.130.014** Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules. [1987 c 518 § 106.] Recodified as RCW 28A.610.030 pursuant to 1990 c 33 § 4.

**28A.130.016** Preference for existing programs before developing new programs. [1987 c 518 § 107.] Recodified as RCW 28A.610.040 pursuant to 1990 c 33 § 4.

**28A.130.018** Reports to legislature. [1987 c 518 § 108.] Recodified as RCW 28A.610.050 pursuant to 1990 c 33 § 4.

**28A.130.020** Information about program—Duties of superintendent through state clearinghouse for education information. [1987 c 518 § 109.] Recodified as RCW 28A.610.060 pursuant to 1990 c 33 § 4.

## Chapter 28A.150

## GENERAL PROVISIONS

**28A.150.090** Commonly-used schoolhouse doors. [1969 ex.s. c 223 § 28A.01.110. Formerly RCW 28A.01.110.] Repealed by 1991 c 116 § 26.

**28A.150.430** Reimbursement to districts through nonpayment of local property taxes—Procedure. [1990 c 33 § 119; 1972 ex.s. c 146 § 2. Formerly RCW 28A.41.175.] Repealed by 1991 c 116 § 26.

## Chapter 28A.155

## SPECIAL EDUCATION

**28A.155.110** Learning/language disabilities, screening for—Purpose. [1990 c 33 § 129; 1975 1st ex.s. c 78 § 1. Formerly RCW 28A.03.300.] Repealed by 1991 c 116 § 26.

**28A.155.120** Learning/language disabilities, screening for—Program. [1985 c 341 § 2; 1975 1st ex.s. c 78 § 2. Formerly RCW 28A.03.310.] Repealed by 1991 c 116 § 26.

**28A.155.130** Learning/language disabilities, screening for—Short title. [1990 c 33 § 130; 1975 1st ex.s. c 78 § 3. Formerly RCW 28A.03.320.] Repealed by 1991 c 116 § 26.

## Chapter 28A.210

## HEALTH—SCREENING AND REQUIREMENTS

**28A.210.230** Screening program for scoliosis—Waiver by superintendent, when. [1990 c 33 § 206; 1985 c 216 § 6. Formerly RCW 28A.31.139.] Repealed by 1991 c 86 § 4.

## Chapter 28A.230

## COMPULSORY COURSEWORK AND ACTIVITIES

**28A.230.200** Assessment tests for eighth through eleventh grade students—School districts may prepare. [1984 c 278 § 10. Formerly RCW 28A.03.365.] Repealed by 1991 c 116 § 26.

## Chapter 28A.305

## STATE BOARD OF EDUCATION

**28A.305.180** Rules and regulations integrating library and media services into learning resources services. [1985 c 341 § 3; 1975 1st ex.s. c 127 § 1. Formerly RCW 28A.04.134.] Repealed by 1991 c 116 § 26.

**28A.305.260** Minority teacher recruitment program—Intent. [1989 c 146 § 1. Formerly RCW 28A.67.250.] Recodified as RCW 28A.415.200 pursuant to 1991 c 285 § 3.

**28A.305.270** Minority teacher recruitment program. [1989 c 146 § 2. Formerly RCW 28A.67.260.] Recodified as RCW 28A.415.205, pursuant to 1991 c 285 § 3.

## Chapter 28A.310

## EDUCATIONAL SERVICE DISTRICTS

**28A.310.450** State supported environmental study centers—District operation. [1975 1st ex.s. c 275 § 38; 1974 ex.s. c 91 § 5. Formerly RCW 28A.21.300.] Repealed by 1991 c 116 § 26.

**28A.310.900** Phrases to have meanings ascribed herein. [1975 1st ex.s. c 275 § 155. Formerly RCW 28A.21.900.] Repealed by 1991 c 116 § 26.

## Chapter 28A.315

## ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

**28A.315.685** Directors' districts in second class districts—Directors' residences. [1990 c 161 § 1.] Repealed by 1991 c 288 § 10.

## Chapter 28A.320

## PROVISIONS APPLICABLE TO ALL DISTRICTS

**28A.320.220** Goals for educational excellence—School district boards of directors to establish annual process. [1984 c 278 § 1. Formerly RCW 28A.58.094.] Repealed by 1991 c 116 § 26.

## Chapter 28A.345

## WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

**28A.345.900** Termination—Sunset review—Expiration date—1983 c 187. [1989 c 325 § 2; 1983 c 187 § 6. Formerly RCW 28A.61.900.] Repealed by 1990 c 297 § 26.

## Chapter 28A.405

## CERTIFICATED EMPLOYEES

**28A.405.020** Qualifications—Citizenship requirement—Permits for nonimmigrant aliens or aliens—Standard certificate for aliens. [1990 c 243 § 7; 1985 c 379 § 5; 1977 ex.s. c 340 § 1; 1969 ex.s. c 223 § 28A.67.020. Prior: 1949 c 32 § 1; 1919 c 38 § 1; Rem. Supp. 1949 § 4845. Formerly RCW 28A.67.020, 28.67.020.] Repealed by 1991 c 115 § 2.

**28A.405.450** Teacher assistance program—Provision for mentor teachers. [1991 c 116 § 19; 1990 c 33 § 403; 1987 c 507 § 1; 1985 c 399 § 1. Formerly RCW 28A.67.240.] Recodified as RCW 28A.415.250 pursuant to 1991 c 285 § 3.

## Chapter 28A.410

## CERTIFICATION

**28A.410.130** Attendance, false reports of—Penalty—Pupils excused from examinations may be reported. [1969 ex.s. c 223 § 28A.87.020. Prior: 1909 c 97 p 361 § 13; RRS § 5056; prior: 1903 c 156 § 13. Formerly RCW 28A.87.020, 28.87.020.] Repealed by 1991 c 116 § 26.

**28A.410.150** Student teaching pilot program—Requirements—Rules—Advisory group. [1989 c 253 § 2; 1987 c 525 § 205. Formerly

RCW 28A.70.400.] Expired December 31, 1990, pursuant to 1989 c 253 § 4.

**28A.410.160 Student teaching pilot program—Definition.** [1990 c 33 § 412; 1987 c 525 § 206. Formerly RCW 28A.70.402.] Expired December 31, 1990, pursuant to 1989 c 253 § 4.

**28A.410.170 Student teaching pilot program—Grants—Applications—Criteria.** [1987 c 525 § 207. Formerly RCW 28A.70.404.] Expired December 31, 1990, pursuant to 1989 c 253 § 4.

**28A.410.180 Student teaching pilot program—Compensation and salary lid compliance.** [1990 c 33 § 413; 1987 c 525 § 208. Formerly RCW 28A.70.406.] Expired December 31, 1990, pursuant to 1989 c 253 § 4.

**28A.410.190 Student teaching pilot program—Report to legislature.** [1989 c 253 § 3; 1987 c 525 § 209. Formerly RCW 28A.70.408.] Expired December 31, 1990, pursuant to 1989 c 253 § 4.

**28A.410.900 Standards for certification effective in 1978—Applicants completing requirements—Time period to apply.** [1987 c 525 § 218. Formerly RCW 28A.70.900.] Repealed by 1991 c 116 § 26.

#### Chapter 28A.505

##### SCHOOL DISTRICTS BUDGETS

**28A.505.190 Program budget for distribution to the public—Contents—Scope.** [1975-'76 2nd ex.s. c 118 § 19. Formerly RCW 28A.65.490.] Repealed by 1991 c 116 § 26.

#### Chapter 28A.525

##### BOND ISSUES

**28A.525.100 1965 bond issue for construction of school plant facilities—Authorized—Form, terms, etc.** [1969 ex.s. c 223 § 28A.47.775. Prior: 1965 ex.s. c 158 § 1. Formerly RCW 28A.47.775, 28.47.775.] Repealed by 1991 c 116 § 26.

**28A.525.102 1965 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use.** [1990 c 33 § 432; 1969 ex.s. c 223 § 28A.47.776. Prior: 1965 ex.s. c 158 § 2. Formerly RCW 28A.47.776, 28.47.776.] Repealed by 1991 c 116 § 26.

**28A.525.104 1965 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1965—Created—Transfer and payment of funds—Prior charge against sales tax revenues.** [1990 c 33 § 433; 1969 ex.s. c 223 § 28A.47.777. Prior: 1965 ex.s. c 158 § 3. Formerly RCW 28A.47.777, 28.47.777.] Repealed by 1991 c 116 § 26.

**28A.525.106 1965 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue.** [1990 c 33 § 434; 1969 ex.s. c 223 § 28A.47.778. Prior: 1965 ex.s. c 158 § 4. Formerly RCW 28A.47.778, 28.47.778.] Repealed by 1991 c 116 § 26.

**28A.525.108 1965 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security.** [1990 c 33 § 435; 1969 ex.s. c 223 § 28A.47.779. Prior: 1965 ex.s. c 158 § 5. Formerly RCW 28A.47.779, 28.47.779.] Repealed by 1991 c 116 § 26.

**28A.525.110 1965 bond issue for construction of school plant facilities—Allotment of funds appropriated from public school building construction account—Local responsibility—Duties, rules and regulations, of state board of education.** [1990 c 33 § 436; 1969 ex.s. c 223 § 28A.47.780. Prior: 1965 ex.s. c 158 § 6. Formerly RCW 28A.47.780, 28.47.780.] Repealed by 1991 c 116 § 26.

**28A.525.112 1965 bond issue for construction of school plant facilities—Appropriations from proceeds of bonds.** [1990 c 33 § 437; 1969 ex.s. c 223 § 28A.47.781. Prior: 1965 ex.s. c 158 § 7. Formerly RCW 28A.47.781, 28.47.781.] Repealed by 1991 c 116 § 26.

**28A.525.114 1965 bond issue for construction of school plant facilities—Allocation of funds—Authorized—Conditions.** [1990 c 33 § 438; 1969 ex.s. c 223 § 28A.47.782. Prior: 1965 ex.s. c 158 § 8. Formerly RCW 28A.47.782, 28.47.782.] Repealed by 1991 c 116 § 26.

**28A.525.116 1965 bond issue for construction of school plant facilities—Referral to electorate.** [1990 c 33 § 439; 1969 ex.s. c 223 § 28A.47.783. Prior: 1965 ex.s. c 158 § 9. Formerly RCW 28A.47.783, 28.47.783.] Repealed by 1991 c 116 § 26.

#### Chapter 28A.550

##### STATE SCHOOL EQUALIZATION FUND

**28A.550.010 Fund—Transfer of excess—Appropriations—Warrants—Earnings.** [1985 c 57 § 9; 1969 ex.s. c 223 § 28A.46.010. Prior: 1959 c 264 § 1; 1937 c 226 § 1; RRS § 4934-3. Formerly RCW 28A.46.010, 28.47.010.] Repealed by 1991 c 116 § 26.

#### Chapter 28A.615

##### SCHOOL INVOLVEMENT PROGRAMS

**28A.615.010 Intent.** [1987 c 518 § 301. Formerly RCW 28A.58.640.] Repealed by 1991 c 116 § 26.

**28A.615.020 Development—Policies and plans.** [1990 c 33 § 508; 1987 c 518 § 302. Formerly RCW 28A.58.642.] Repealed by 1991 c 116 § 26.

**28A.615.030 Information—Suggestions—Agreements.** [1990 c 33 § 509; 1987 c 518 § 303. Formerly RCW 28A.58.644.] Repealed by 1991 c 116 § 26.

**28A.615.040 Role of employers.** [1987 c 518 § 304. Formerly RCW 28A.58.646.] Repealed by 1991 c 116 § 26.

#### Chapter 28A.625

##### AWARDS

**28A.625.040 Awards for school district superintendent and school board.** [1990 c 33 § 515; 1986 c 147 § 4. Formerly RCW 28A.03.529.] Repealed by 1991 c 255 § 11.

**28A.625.070 Educational grant for school district board of directors and school district superintendent.** [1990 c 33 § 518; 1986 c 147 § 8. Formerly RCW 28A.03.538.] Repealed by 1991 c 255 § 11.

**28A.625.420 Excellence in teacher preparation program created.** [1990 1st ex.s. c 10 § 7.] Repealed by 1991 c 258 § 11.

#### Chapter 28A.630

##### TEMPORARY PROVISIONS—SPECIAL PROJECTS

**28A.630.310 Advisory committee—Development of model curriculum or curriculum guidelines—Study about resource center.** [1990 c 33 § 533; 1987 c 349 § 2. Formerly RCW 28A.125.020.] Repealed by 1991 c 116 § 26.

**28A.630.340 Report to legislature.** [1987 c 349 § 5. Formerly RCW 28A.125.100.] Repealed by 1991 c 116 § 26.

## Title 28B

### HIGHER EDUCATION

#### Chapter 28B.15

##### COLLEGE AND UNIVERSITY FEES

**28B.15.547 Waiver of tuition and fees for teachers and principals receiving awards for excellence in education.** [1986 c 147 § 6.] Repealed by 1991 c 255 § 11.

#### Chapter 28B.25

##### JOINT CENTER FOR HIGHER EDUCATION

**28B.25.060 Cooperation and use of resources and facilities—Report to the legislature.** [1985 c 370 § 102.] Repealed by 1991 c 205 § 12, effective July 1, 1991.

#### Chapter 28B.31

##### 1977 WASHINGTON STATE UNIVERSITY BUILDINGS AND FACILITIES FINANCING ACT

**28B.31.040 Disposition of proceeds from sale of bonds and notes.** [1985 c 57 § 14; 1977 ex.s. c 344 § 4.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 28B.50****COMMUNITY AND TECHNICAL COLLEGES**

**28B.50.055** State board for community college education—Membership, effect of creation of new congressional districts or boundaries. [1982 1st ex.s. c 30 § 10.] Repealed by 1991 c 238 § 156, effective September 1, 1991.

**Contingency—1991 c 238 §§ 93–101, 156:** See note following RCW 28B.50.305.

**28B.50.300** Title to or all interest in real estate, choses in action and assets obtained for community college or vocational educational purposes by school districts to pass, when—Exceptions. [1977 ex.s. c 282 § 6; 1971 c 81 § 73; 1969 ex.s. c 223 § 28B.50.300. Prior: 1967 ex.s. c 8 § 30. Formerly RCW 28.85.300.] Decodified pursuant to 1991 c 238 § 164, effective July 1, 1991.

**Chapter 28B.56****1972 COMMUNITY COLLEGES FACILITIES AID—BOND ISSUE**

**28B.56.030** Community college capital improvements account—Deposits—Use. [1985 c 57 § 17; 1972 ex.s. c 133 § 3.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 28B.80****HIGHER EDUCATION COORDINATING BOARD**

**28B.80.530** Branch campuses—Demonstration project. [1989 1st ex.s. c 7 § 12.] Repealed by 1990 c 288 § 9.

**28B.80.540** Branch campuses—Demonstration project eligibility. [1989 1st ex.s. c 7 § 13.] Repealed by 1990 c 288 § 9.

**Chapter 28B.104****NURSES CONDITIONAL SCHOLARSHIP PROGRAM**

**28B.104.010** Legislative findings. [1988 c 242 § 1.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.020** Definitions. [1989 1st ex.s. c 9 § 206; 1989 c 115 § 1; 1988 c 242 § 2.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.030** Program established—Powers and duties of board. [1988 c 242 § 3.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.040** Planning committee—Development of criteria for selecting recipients. [1988 c 242 § 4.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.050** Award of conditional scholarships—Amount—Duration. [1988 c 242 § 5.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.060** Repayment obligation. [1991 c 164 § 7; 1991 c 3 § 292; 1988 c 242 § 6.] Repealed by 1991 1st sp.s. c 27 § 2.

**Reviser's note:** RCW 28B.104.060 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**28B.104.070** Transfer of program administration. [1988 c 242 § 7.] Repealed by 1991 1st sp.s. c 27 § 2.

**28B.104.900** Expiration of program. [1988 c 242 § 9.] Repealed by 1991 1st sp.s. c 27 § 2.

**Title 28C****VOCATIONAL EDUCATION****Chapter 28C.04****VOCATIONAL EDUCATION**

**28C.04.015** Definitions. [1990 c 188 § 1.] Repealed by 1991 c 238 § 157, effective October 1, 1991.

**28C.04.024** State board for vocational education created. [1990 c 188 § 2.] Repealed by 1991 c 238 § 157, effective October 1, 1991.

**28C.04.035** Rules. [1990 c 188 § 3.] Repealed by 1991 c 238 § 157, effective October 1, 1991.

**28C.04.045** Compensation of board members. [1990 c 188 § 4.] Repealed by 1991 c 238 § 157, effective October 1, 1991.

**Chapter 28C.15****VOCATIONAL TECHNOLOGY CENTER**

**28C.15.010** Purpose. [1987 c 492 § 1.] Repealed by 1991 c 238 § 156, effective September 1, 1991.

**Contingency—1991 c 238 §§ 93–101, 156:** See note following RCW 28B.50.305.

**28C.15.020** Formation of public nonprofit corporation—Board of directors—Powers and duties—Exemption from certain laws governing personnel. [1987 c 492 § 2.] Repealed by 1991 c 238 § 156, effective September 1, 1991.

**Contingency—1991 c 238 §§ 93–101, 156:** See note following RCW 28B.50.305.

**28C.15.030** Members—Compensation—Travel expenses—Annual reports. [1987 c 492 § 3.] Repealed by 1991 c 238 § 156, effective September 1, 1991.

**Contingency—1991 c 238 §§ 93–101, 156:** See note following RCW 28B.50.305.

**28C.15.900** Severability—1987 c 492. [1987 c 492 § 4.] Repealed by 1991 c 238 § 156, effective September 1, 1991.

**Contingency—1991 c 238 §§ 93–101, 156:** See note following RCW 28B.50.305.

**Title 29****ELECTIONS****Chapter 29.04****GENERAL PROVISIONS**

**29.04.220** Information on geographical boundaries. [1991 c 178 § 2.] Recodified as RCW 29.15.026 pursuant to 1991 c 178 § 3, effective July 1, 1992.

**Chapter 29.07****REGISTRATION OF VOTERS**

**29.07.151** County registration records—Maintenance—Inspection and copying, when. [1986 c 167 § 5.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**Chapter 29.10****REGISTRATION TRANSFERS AND CANCELLATIONS**

**29.10.030** Transfers—Registrar's duties. [1971 ex.s. c 202 § 25; 1965 c 9 § 29.10.030. Prior: 1955 c 181 § 5; prior: 1933 c 1 § 14, part; RRS § 5114–14, part; prior: 1919 c 163 § 9, part; 1915 c 16 § 9, part; 1889 p 417 § 12, part; RRS § 5129, part.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.10.050** Reregistration upon change of name of voter. [1965 c 9 § 29.10.050. Prior: 1947 c 68 § 4; 1933 c 1 § 16; Rem. Supp. 1947 § 5114–16.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.10.120** Sworn statement of cancellations—Filing. [1977 ex.s. c 361 § 28; 1971 ex.s. c 202 § 33; 1965 c 9 § 29.10.120. Prior: 1951 c 208 § 1.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.10.160** Different addresses in precinct list and permanent records—Procedure. [1975 1st ex.s. c 184 § 3; 1971 ex.s. c 202 § 36; 1965 ex.s. c 156 § 8.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

## Chapter 29.13

## TIMES FOR HOLDING ELECTIONS AND PRIMARIES

**29.13.025** "Class A county" includes higher classifications. [1990 c 59 § 101; 1979 ex.s. c 126 § 13; 1965 c 9 § 29.13.025. Prior: 1951 c 101 § 8.] Repealed by 1991 c 363 § 163.

**29.13.075** Elections to fill unexpired term--No primary, when. [1973 c 4 § 3.] Recodified as RCW 29.15.150 pursuant to 1990 c 59 § 110, effective July 1, 1992.

## Chapter 29.18

## PARTISAN PRIMARIES

**29.18.015** Officials to designate state representative positions, when--Effect. [1990 c 59 § 79; 1965 c 52 § 1.] Recodified as RCW 29.15.130 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.020** What candidates shall appear on ballot. [1977 ex.s. c 329 § 10; 1965 c 9 § 29.18.020. Prior: 1907 c 209 § 6, part; RRS § 5183, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.021** Qualifications for filing, appearance on ballot. [1991 c 178 § 1.] Recodified as RCW 29.15.025 pursuant to 1991 c 178 § 3, effective July 1, 1992.

**29.18.022** Order of candidates on ballots. [1987 c 110 § 1; 1986 c 120 § 1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.025** Declarations of candidacy--Certain offices, when filed. [1990 c 59 § 81; 1986 c 167 § 8; 1984 c 142 § 2.] Recodified as RCW 29.15.020 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.030** Declaration and affidavit of candidacy--Most candidates--Necessity--Form. [1987 c 133 § 1; 1984 c 142 § 3; 1965 ex.s. c 103 § 1; 1965 c 9 § 29.18.030. Prior: 1959 c 250 § 1; 1947 c 234 § 1; 1933 c 95 § 1; 1907 c 209 § 4; Rem. Supp. 1947 § 5180.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.031** Precinct committeeman--Declaration of candidacy. [1987 c 133 § 2.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.032** Vacancy in partisan elective office--Special filing period. [1981 c 180 § 2.] Recodified as RCW 29.15.230 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.035** Titles designating occupation prohibited. [1965 c 9 § 29.18.035. Prior: 1955 c 169 § 1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.040** Declaration of candidacy--Where filed--Copy to public disclosure commission. [1990 c 59 § 84; 1977 ex.s. c 361 § 30; 1975-'76 2nd ex.s. c 112 § 1; 1965 c 9 § 29.18.040. Prior: 1907 c 209 § 7; RRS § 5184.] Recodified as RCW 29.15.030 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.045** Declaration of candidacy--Filing by mail. [1987 c 110 § 2; 1986 c 120 § 2.] Recodified as RCW 29.15.040, pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.050** Declarations of candidacy--Fees and petitions. [1990 c 59 § 85; 1987 c 295 § 2; 1984 c 142 § 4; 1965 c 9 § 29.18.050. Prior: 1909 c 82 § 2; 1907 c 209 § 5; RRS § 5182.] Recodified as RCW 29.15.050 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.053** Nominating petition--Form. [1984 c 142 § 5.] Recodified as RCW 29.15.060 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.055** Nominating petitions--Rejection--Acceptance, canvass of signatures--Judicial review. [1984 c 142 § 6.] Recodified as RCW 29.15.070 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.057** Nominating petitions--Penalties for improperly signing. [1984 c 142 § 8.] Recodified as RCW 29.15.080 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.060** Declaration of candidacy--Duplication of names--Election ballots. [1965 c 9 § 29.18.060. Prior: 1955 c 103 § 1; 1943 c 198 § 1; Rem. Supp. 1943 § 5213-10.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.070** Duplication of, use of nonexistent or untrue names, as felony. [1965 c 9 § 29.18.070. Prior: (i) 1943 c 198 § 2; Rem. Supp.

1943 § 5213-11. (ii) 1943 c 198 § 3; Rem. Supp. 1943 § 5213-12.] Recodified as RCW 29.15.100 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.080** Duplication of names--Conspiracy--Criminal and civil liability. [1965 c 9 § 29.18.080. Prior: 1943 c 198 § 6; Rem. Supp. 1943 § 5213-15.] Recodified as RCW 29.15.110 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.090** Duplication of, use of nonexistent or untrue names--Call for meeting to adjust. [1965 c 9 § 29.18.090. Prior: 1943 c 198 § 4; Rem. Supp. 1943 § 5213-13.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.100** Duplication of, use of nonexistent or untrue names--Conduct of meeting to adjust. [1965 c 9 § 29.18.100. Prior: 1943 c 198 § 5; Rem. Supp. 1943 § 5213-14.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.18.105** Declaration of candidacy--Withdrawal period. [1990 c 59 § 86; 1984 c 142 § 7.] Recodified as RCW 29.15.120 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.18.110** Number of votes necessary for appearance on general election ballot. [1977 ex.s. c 329 § 11; 1974 ex.s. c 127 § 5; 1965 c 9 § 29.18.110. Prior: 1963 c 189 § 1; 1961 c 130 § 16; prior: (i) 1919 c 163 § 18, part; 1907 c 209 § 23, part; RRS § 5199, part. (ii) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

## Chapter 29.21

## NONPARTISAN PRIMARIES AND ELECTIONS

**29.21.017** City councilmember positions numbered as separate offices--Exception--Exclusive method of nominating and electing. [1981 c 213 § 5; 1965 c 9 § 29.21.017. Prior: 1961 c 109 § 1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.020** Declarations of candidacy--Generally. [1965 c 9 § 29.21.020. Prior: (i) 1939 c 1 § 2, part; RRS § 5274-2, part. FORMER PART OF SECTION: 1947 c 234 § 1, part; 1933 c 95 § 1, part; 1915 c 52 § 2, part; 1907 c 209 § 4, part; Rem. Supp. 1947 § 5180, part, now codified in RCW 29.18.030.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.040** City offices in commission form cities. [1965 c 9 § 29.21.040. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.060** Declarations of candidacy in cities, towns, and certain districts. [1986 c 167 § 9; 1977 ex.s. c 361 § 31; 1975-'76 2nd ex.s. c 120 § 3; 1969 ex.s. c 283 § 56; 1965 ex.s. c 103 § 2; 1965 c 9 § 29.21.060. Prior: 1963 c 200 § 10; 1959 c 247 § 2; 1959 c 175 § 7; 1951 c 101 § 5; 1949 c 161 § 6; 1947 c 234 § 3; 1945 c 194 § 5; Rem. Supp. 1949 § 5166-4.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.075** Order of candidates for district court judge. [1987 c 110 § 3.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.080** Public school administrative offices as nonpartisan. [1969 ex.s. c 176 § 87; 1965 c 9 § 29.21.080. Prior: (i) 1939 c 1 § 1; RRS § 5274-1. (ii) 1939 c 1 § 2, part; RRS § 5274-2, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.085** Superintendent of public instruction--Ballot arrangement where voting machines. [1983 c 3 § 44; 1969 ex.s. c 176 § 88; 1965 c 9 § 29.21.085. Prior: 1939 c 1 § 2, part; RRS § 5274-2, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.090** Arrangement of names on ballots. [1965 c 9 § 29.21.090. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. (iii) 1939 c 1 § 2, part; RRS § 5274-2, part. (iv) 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.110** Supreme, superior court, and court of appeals judges--Designation of position. [1970 ex.s. c 19 § 1; 1965 c 9 § 29.21.110. Prior: 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part;

1907 c 209 § 38, part; RRS § 5212, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.120 Judicial ballots—Form.** [1987 c 202 § 194; 1965 c 9 § 29.21.120. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.130 Ballots in commission form cities.** [1965 c 9 § 29.21.130. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.140 Designation of short terms, full terms, and unexpired terms—Filing declarations—Election to both short and full terms.** [1990 c 59 § 92; 1975-'76 2nd ex.s. c 120 § 4; 1965 c 9 § 29.21.140. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.] Recodified as RCW 29.15.140 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.150 Determining nominees for single positions.** [1975-'76 2nd ex.s. c 120 § 5; 1970 ex.s. c 10 § 1. Prior: 1969 ex.s. c 283 § 57; 1969 ex.s. c 221 § 11; 1969 ex.s. c 176 § 89; 1965 c 9 § 29.21.150; prior: (i) 1939 c 1 § 2, part; RRS § 5274-2, part. (ii) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (iii) 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part. (iv) 1933 c 85 § 1, part; RRS § 5213-1, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.160 Determining nominees for multiple positions.** [1975-'76 2nd ex.s. c 120 § 6; 1965 c 9 § 29.21.160. Prior: 1933 c 85 § 1, part; RRS § 5213-1, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.180 When no primary in certain offices—Prerequisites—Procedure.** [1979 ex.s. c 183 § 8; 1973 2nd ex.s. c 21 § 7; 1970 ex.s. c 10 § 2. Prior: 1969 ex.s. c 283 § 58; 1969 ex.s. c 176 § 90; 1969 c 131 § 1; 1965 c 9 § 29.21.180; prior: 1959 c 247 § 1; 1955 c 101 § 1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.190 School directors, city over one hundred thousand—Non-partisan.** [1965 c 9 § 29.21.190. Prior: 1959 c 247 § 3.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.200 School directors, city over one hundred thousand—Declarations of candidacy—Designation of positions.** [1965 c 9 § 29.21.200. Prior: 1959 c 247 § 4.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.210 School directors, city over one hundred thousand—Ballots—Form.** [1979 ex.s. c 183 § 9; 1973 2nd ex.s. c 21 § 8; 1969 c 131 § 2; 1965 c 9 § 29.21.210. Prior: 1959 c 247 § 5.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.220 School directors in district embracing city over one hundred thousand—When nominating primary held—Costs.** [1965 c 7 § 29.21.220. Prior: 1959 c 247 § 6.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.330 County freeholders—Designation of positions—Rotation of names on ballots.** [1977 ex.s. c 361 § 32; 1967 ex.s. c 130 § 1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.21.350 Void in candidacy—When occurs—Exception.** [1975-'76 2nd ex.s. c 120 § 9; 1972 ex.s. c 61 § 1.] Recodified as RCW 29.15.160 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.360 Reopening of filing—Occurrences before fourth Tuesday before primary.** [1975-'76 2nd ex.s. c 120 § 10; 1972 ex.s. c 61 § 2.] Recodified as RCW 29.15.170 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.370 Reopening of filing—Occurrences after fourth Tuesday before primary.** [1975-'76 2nd ex.s. c 120 § 11; 1972 ex.s. c 61 § 3.] Recodified as RCW 29.15.180 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.380 Scheduled election lapses, when.** [1975-'76 2nd ex.s. c 120 § 12; 1972 ex.s. c 61 § 4.] Recodified as RCW 29.15.190 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.385 Lapse of election when no filing for single positions—Effect.** [1975-'76 2nd ex.s. c 120 § 13.] Recodified as RCW 29.15.200 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.390 Notice of void in candidacy.** [1972 ex.s. c 61 § 5.] Recodified as RCW 29.15.210 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.21.400 Filings to fill void in candidacy—How made.** [1972 ex.s. c 61 § 6.] Recodified as RCW 29.15.220 pursuant to 1990 c 59 § 110, effective July 1, 1992.

## Chapter 29.27

### CERTIFICATES AND NOTICES

**29.27.010 Certifying list of offices to be filled.** [1983 c 3 § 45; 1965 c 9 § 29.27.010. Prior: 1923 c 53 § 6, part; RRS § 5148-2, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.27.040 Filing list of nominees—Towns.** [1965 c 9 § 29.27.040. Prior: 1951 c 101 § 6; 1949 c 161 § 7; 1947 c 234 § 4; 1921 c 178 § 2; 1889 p 403 § 8; Rem. Supp. 1949 § 5172.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.27.045 Proclamation of state offices to be filled.** [1965 c 9 § 29.27.045. Prior: Code 1881 § 3058; 1865 p 27 § 4; RRS § 5156.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

## Chapter 29.30

### BALLOTS

**29.30.030 Paper ballots—Primaries—Form.** [1977 ex.s. c 361 § 53; 1965 c 9 § 29.30.030. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.061 Paper ballots—General election—Requirements.** [1977 ex.s. c 361 § 57.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.091 Paper ballots—General election—Form of ballot.** [1982 c 121 § 2; 1977 ex.s. c 361 § 61.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.105 Primary votes required for appearance on general election ballot.** [1990 c 59 § 15.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.30.310 Voting devices—All elections—Ballot pages—Uniformity, arrangement, contents required—Ballot cards.** [1986 c 167 § 12; 1977 ex.s. c 361 § 33.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.320 Voting devices—Primary ballot—Arrangement of offices—Write-in candidate space.** [1977 ex.s. c 361 § 34.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.330 Voting devices—Primary ballot page, form.** [1977 ex.s. c 361 § 35.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.340 Voting devices—Primaries—Rotating names of candidates.** [1977 ex.s. c 361 § 36.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.350 Voting devices—Sample ballots.** [1987 c 295 § 5; 1986 c 120 § 4; 1977 ex.s. c 361 § 37.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.370 Voting devices—Ballot pages—General elections—Requirements.** [1977 ex.s. c 361 § 39.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.380 Voting devices—General election—Order of candidates for each office—Write-in candidate space.** [1977 ex.s. c 361 § 40.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.390 Voting devices—General election—Form of ballot pages.** [1977 ex.s. c 361 § 41.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.410 Voting machines—Primary ballot labels—Uniformity, arrangement, contents required.** [1977 ex.s. c 361 § 42.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.420 Voting machines—Primary ballot—Arrangement of offices—Write-in candidate space.** [1977 ex.s. c 361 § 43.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.430 Voting machines—Primary ballot, form.** [1977 ex.s. c 361 § 44.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.440 Voting machines—Primaries—Rotating names of candidates.** [1977 ex.s. c 361 § 45.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.450 Voting machines—Sample diagrams.** [1987 c 295 § 6; 1986 c 120 § 5; 1977 ex.s. c 361 § 46.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.460 Voting machines—Ballot labels—General election—Requirements.** [1977 ex.s. c 361 § 47.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.480 Voting machines—General election—Arrangement of instructions, measures, offices—Order of candidates.** [1982 c 121 § 3; 1977 ex.s. c 361 § 49.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.30.490 Voting machines—General election—Form of ballot labels.** [1977 ex.s. c 361 § 50.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

#### Chapter 29.33 VOTING MACHINES

**29.33.010 Definitions.** [1965 c 9 § 29.33.010. Prior: 1957 c 195 § 2; prior: 1913 c 58 § 3, part; RRS § 5302, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.015 Election defined.** [1965 c 9 § 29.33.015. Prior: 1913 c 58 § 1, part; RRS § 5300, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.090 Requirements of voting machines for approval.** [1982 c 40 § 5; 1965 c 9 § 29.33.090. Prior: 1935 c 20 § 4; 1913 c 58 § 4; RRS § 5303.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.110 Purchase of machines, voting devices, or vote tallying systems—Joint use and purchase authorized.** [1967 ex.s. c 109 § 21; 1965 c 9 § 29.33.110. Prior: 1913 c 58 § 17; RRS § 5317.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.120 Purchase of machines, voting devices, or vote tallying systems—Manner of payment or rental.** [1967 ex.s. c 109 § 22; 1965 c 9 § 29.33.120. Prior: 1913 c 58 § 6; RRS § 5305.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.140 Chief custodian.** [1965 c 9 § 29.33.140. Prior: 1955 c 323 § 3; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.150 Preparation of machine for use.** [1965 c 9 § 29.33.150. Prior: 1955 c 323 § 4; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.160 General provisions for use.** [1965 c 9 § 29.33.160. Prior: 1957 c 195 § 4; prior: 1955 c 323 § 5. (i) 1913 c 58 § 3, part; RRS § 5302, part. (ii) 1915 c 114 § 1, part; 1913 c 58 § 5, part; RRS § 5304, part. (iii) 1947 c 77 § 3, part; Rem. Supp. 1947 § 5318-1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.170 Exhibiting specimen machines.** [1965 c 9 § 29.33.170. Prior: 1915 c 114 § 3, part; 1913 c 58 § 8, part; RRS § 5307, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.180 Publication of diagrams.** [1987 c 295 § 7; 1977 ex.s. c 361 § 62; 1965 c 9 § 29.33.180. Prior: 1915 c 114 § 3, part; 1913 c 58 § 8, part; RRS § 5307, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.190 Printed matter and supplies.** [1965 c 9 § 29.33.190. Prior: 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part;

1913 c 58 § 7, part; RRS § 5306, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.200 Samples of printed matter provided for first elections.** [1965 c 9 § 29.33.200. Prior: 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.210 Judges of election—Additional, when appointed.** [1977 ex.s. c 361 § 63; 1965 c 9 § 29.33.210. Prior: 1955 c 168 § 2; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.220 Inspectors and judges of election—Instruction in use of voting machines—Compensation.** [1977 ex.s. c 361 § 64; 1975-'76 2nd ex.s. c 46 § 4; 1973 c 102 § 1; 1971 ex.s. c 124 § 1; 1965 c 9 § 29.33.220. Prior: 1955 c 168 § 3; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.33.230 Machines kept locked after election—Exceptions.** [1990 c 59 § 24; 1965 c 9 § 29.33.230. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.] Recodified as RCW 29.54.121 pursuant to 1990 c 59 § 110, effective July 1, 1992.

#### Chapter 29.34

#### VOTING DEVICES AND VOTE TALLYING SYSTEMS

**29.34.010 Definitions.** [1977 ex.s. c 361 § 65; 1967 ex.s. c 109 § 11.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.34.080 Requirements of voting devices for approval.** [1990 c 59 § 26; 1982 c 40 § 6; 1977 ex.s. c 361 § 66; 1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18.] Recodified as RCW 29.33.300 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.085 Single district and precinct on voting devices.** [1990 c 59 § 27; 1989 c 155 § 1; 1987 c 295 § 8; 1983 c 143 § 1.] Recodified as RCW 29.33.310 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.090 Requirements of vote tallying systems for approval.** [1990 c 59 § 28; 1982 c 40 § 7; 1967 ex.s. c 109 § 19.] Recodified as RCW 29.33.320 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.125 Ballot pages, contents and arrangement—Ballot cards, numbering.** [1986 c 167 § 13; 1977 ex.s. c 361 § 67.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.34.130 Materials, supplies, and procedures—Secretary of state to prescribe.** [1977 ex.s. c 361 § 68; 1967 ex.s. c 109 § 23.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.34.140 Appointment of precinct election officers.** [1967 ex.s. c 109 § 24.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.34.143 Instructional requirements—Inspectors and judges of elections.** [1990 c 59 § 29; 1977 ex.s. c 361 § 69.] Recodified as RCW 29.33.340 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.145 Instructional requirements—Counting center personnel.** [1977 ex.s. c 361 § 70.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.34.153 Counting center, location, direction and observation of proceedings—Technical assistance from private vendors, limitations—Duties of public officials.** [1990 c 59 § 30; 1977 ex.s. c 361 § 71.] Recodified as RCW 29.54.025 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.157 Ballot card pick up, delivery, and transportation.** [1990 c 59 § 31; 1977 ex.s. c 361 § 72.] Recodified as RCW 29.54.037 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.163 Vote tallying systems—Programming tests.** [1990 c 59 § 32; 1977 ex.s. c 361 § 73.] Recodified as RCW 29.33.350 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.167 Counting ballot cards—Official returns.** [1990 c 59 § 33; 1977 ex.s. c 361 § 74.] Recodified as RCW 29.54.085 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.170 Guidance manuals.** [1990 c 59 § 34; 1977 ex.s. c 361 § 75; 1967 ex.s. c 109 § 32.] Recodified as RCW 29.33.360 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.34.180 Voting devices and vote tallying systems may be used in all counties.** [1971 ex.s. c 6 § 2; 1967 ex.s. c 130 § 2.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

#### Chapter 29.51

##### POLLING PLACE REGULATIONS DURING VOTING HOURS

**29.51.080 Transcribing name when registration not a prerequisite.** [1965 c 9 § 29.51.080. Prior: 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.110 Deposit of ballot after voting.** [1986 c 167 § 15; 1971 ex.s. c 202 § 43; 1965 c 9 § 29.51.110. Prior: 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947 § 5288, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.120 Record of voters having voted.** [1965 c 9 § 29.51.120. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.130 Voting machine—Help in use.** [1965 c 9 § 29.51.130. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.160 Voting machine—Out of order.** [1965 c 9 § 29.51.160. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.220 Time allowed to vote.** [1965 c 9 § 29.51.220. Prior: (i) 1889 p 410 § 24, part; RRS § 5289, part. (ii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (iii) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.51.260 Proclamation of closing.** [1965 c 9 § 29.51.260. Prior: Code 1881 § 3087; 1865 p 36 § 12; RRS § 5331.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

#### Chapter 29.54

##### POLLING PLACE REGULATIONS DURING VOTING HOURS AND AFTER CLOSING

**29.54.020 Removing ballots from box—Stringing.** [1965 ex.s. c 101 § 7; 1965 c 9 § 29.54.020. Prior: (i) 1945 c 90 § 1, part; Code 1881 § 3092, part; 1868 p 19 § 2, part; Rem. Supp. 1945 § 5337, part. (ii) 1935 c 26 § 4; 1919 c 163 § 17; 1907 c 209 § 19; RRS § 5195. (iii) Code 1881 § 3088, part; 1865 p 37 § 1, part; RRS § 5333, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.030 Counting private while polls open—Party observers.** [1965 ex.s. c 101 § 8; 1965 c 9 § 29.54.030. Prior: 1955 c 148 § 4; Code 1881 § 3089; 1865 p 37 § 1, part; RRS § 5334.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.035 Paper ballot precincts—Divulging ballot count—Penalty.** [1990 c 59 § 55; 1977 ex.s. c 361 § 85; 1965 c 9 § 29.54.035. Prior: 1955 c 148 § 6.] Recodified as RCW 29.85.225 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**29.54.040 Paper ballot precincts—Count continuous—Duties complete, when.** [1977 ex.s. c 361 § 86; 1965 ex.s. c 101 § 9; 1965 c 9 § 29.54.040. Prior: (i) Code 1881 § 3088, part; 1865 p 37 § 1, part; RRS § 5333, part. (ii) Code 1881 § 3090; 1865 p 37 § 1, part; RRS § 5335.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.043 Counting ballots—Procedure.** [1967 ex.s. c 109 § 2; 1965 ex.s. c 101 § 12.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.045 Paper ballot precincts—Counting ballots—More than one set of precinct election officers appointed, procedure.** [1977 ex.s. c 361 § 87; 1973 c 102 § 4; 1965 ex.s. c 101 § 10; 1965 c 9 § 29.54.045. Prior: 1955 c 148 § 5.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.070 Sealing and return of counted paper ballots.** [1977 ex.s. c 361 § 90; 1967 ex.s. c 109 § 10; 1965 c 9 § 29.54.070. Prior: 1945 c 90 § 1, part; Code 1881 § 3092, part; 1868 p 19 § 2, part; Rem. Supp. 1945 § 5337, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.080 Paper ballots and voting machines—Certification of result and returns.** [1977 ex.s. c 361 § 91; 1965 c 9 § 29.54.080. Prior: 1957 c 195 § 9; prior: (i) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (ii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.090 Voting machine count—Method.** [1965 c 9 § 29.54.090. Prior: 1957 c 195 § 10; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.100 Voting machine count—Verification and certification.** [1965 c 9 § 29.54.100. Prior: 1957 c 195 § 11; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.110 Voting machine count—Public announcement.** [1965 c 9 § 29.54.110. Prior: 1957 c 195 § 12; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.120 Voting machine count—Closing machines—Delivery of key.** [1965 c 9 § 29.54.120. Prior: 1957 c 195 § 13; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.130 Paper ballot and voting machine precincts—Transmittal of returns—Penalty.** [1977 ex.s. c 361 § 92; 1965 c 9 § 29.54.130. Prior: 1957 c 195 § 14; prior: (i) 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part. (ii) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

**29.54.140 Paper ballot and voting machine precincts—Unofficial results, copies—Posting—Transmittal.** [1977 ex.s. c 361 § 93; 1965 c 9 § 29.54.140. Prior: (i) 1935 c 108 § 2; RRS § 5339-2. (ii) 1935 c 108 § 1; RRS § 5339-1.] Repealed by 1990 c 59 § 112, effective July 1, 1992.

#### Chapter 29.64

##### STATUTORY RECOUNT PROCEEDINGS

**29.64.050 Further recount where partial recount changes results.** [1990 c 59 § 67; 1965 c 9 § 29.64.050. Prior: 1955 c 215 § 5.] Repealed by 1991 c 90 § 4.

#### Chapter 29.85

##### CRIMES AND PENALTIES

**29.85.030 Ballots—Opening, disclosing choice of voter.** [1965 c 9 § 29.85.030. Prior: Code 1881 § 3146; 1865 p 51 § 7; No RRS.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.050 Ballots—Misleading voters in marking.** [1965 c 9 § 29.85.050. Prior: Code 1881 § 902; 1873 p 204 § 101; 1854 p 92 § 92; RRS § 5390.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.080 Intimidating, influencing, or bribing elector—Solicitation of bribe by candidate or voter.** [1965 c 9 § 29.85.080. Prior: Code 1881 § 3148; RRS § 5394.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.105 Nominating certificates and petitions—False information.** [1977 ex.s. c 329 § 17.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.120 Electioneering for hire in commission form cities.** [1965 c 9 § 29.85.120. Prior: 1911 c 116 § 8; RRS § 9097.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.130 Bribery and other election violations in commission form cities.** [1965 c 9 § 29.85.130. Prior: 1911 c 116 § 9; RRS § 9098.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.140 Forgery on nomination paper.** [1965 c 9 § 29.85.140. Prior: 1907 c 209 § 35; RRS § 5210.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.160 Officers where voting machines or voting devices and vote tallying systems are used—Violations at the polls.** [1967 ex.s. c 109 §

31; 1965 c 9 § 29.85.160. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.180 Perjury—Swearing falsely when challenged at primary.** [1965 c 9 § 29.85.180. Prior: 1907 c 209 § 34; RRS § 5209.] Repealed by 1991 c 81 § 41, effective July 1, 1992.

**29.85.190 Registration law—Officer violating.** [1991 c 81 § 11; 1965 c 9 § 29.85.190. Prior: 1933 c 1 § 26; RRS § 5114-26; prior: 1889 p 418 § 15; RRS § 5133.] Recodified as RCW 29.07.400 pursuant to 1991 c 81 § 40, effective July 1, 1992.

**29.85.200 Registration law—Voter violations.** [1991 c 81 § 12; 1990 c 143 § 12; 1977 ex.s. c 361 § 110; 1965 c 9 § 29.85.200. Prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136.] Recodified as RCW 29.07.410 pursuant to 1991 c 81 § 40, effective July 1, 1992.

## Title 31

### MISCELLANEOUS LOAN AGENCIES

#### Chapter 31.04

##### INDUSTRIAL LOAN COMPANIES

**31.04.010 Definitions—Use of words in name.** [1941 c 19 § 1; 1925 ex.s. c 186 § 1; 1923 c 172 § 1; Rem. Supp. 1941 § 3862-1. Formerly RCW 31.04.010 and 31.04.020.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.030 Articles of incorporation—Contents.** [1923 c 172 § 2; RRS § 3862-2.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.040 Schedule of fees.** [1982 c 10 § 4. Prior: 1981 c 312 § 1; 1981 c 302 § 20; 1929 c 71 § 1; 1923 c 172 § 3; RRS § 3862-3.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.050 Articles, approval or rejection—Appeal—Filing—Fees.** [1981 c 302 § 21; 1923 c 172 § 4; RRS § 3862-4.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.060 Capital to be paid in cash.** [1925 ex.s. c 186 § 2; 1923 c 172 § 6; RRS § 3862-6.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.070 Certificate of authority.** [1981 c 302 § 22; 1923 c 172 § 5; RRS § 3862-5.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.080 Minimum capital stock—Increase or decrease—Share value—Amendment of articles.** [1941 c 19 § 2; 1939 c 95 § 3; 1925 ex.s. c 186 § 3; 1923 c 172 § 7; Rem. Supp. 1941 § 3862-7.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.090 Corporate powers.** [1988 c 7 § 1; 1985 c 74 § 1; 1981 c 312 § 2; 1941 c 19 § 3; 1939 c 95 § 2; 1925 ex.s. c 186 § 4; 1923 c 172 § 8; Rem. Supp. 1941 § 3862-8.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.095 Open-end loans.** [1985 c 74 § 3.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.100 Prohibited acts.** [1988 c 7 § 2; 1985 c 74 § 2; 1981 c 312 § 3; 1941 c 19 § 4; 1939 c 95 § 3; 1925 ex.s. c 186 § 5; 1923 c 172 § 9; Rem. Supp. 1941 § 3862-9.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.110 Cash reserve.** [1923 c 172 § 10; RRS § 3862-10.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.120 Real estate holdings.** [1925 ex.s. c 186 § 6; 1923 c 172 § 11; RRS § 3862-11.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.130 Dividends.** [1941 c 19 § 5; 1925 ex.s. c 186 § 7; 1923 c 172 § 12; Rem. Supp. 1941 § 3862-12.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.140 Reports to supervisor.** [1981 c 312 § 4; 1923 c 172 § 14; RRS § 3862-14.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.150 Examinations by supervisor—Perjury—Rules—Corporate records—False advertising—Appeals.** [1981 c 312 § 5; 1941 c 19 § 6; 1923 c 172 § 15; Rem. Supp. 1941 § 3862-15. Formerly RCW 31.04.150, 31.04.170, 31.04.180 and 31.04.190.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.160 Cost of examinations.** [1988 c 25 § 2; 1923 c 172 § 16; RRS § 3862-16.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.200 Bonds of officers and employees.** [1923 c 172 § 17; RRS § 3862-17.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.210 Bad debts—Judgments.** [1925 ex.s. c 186 § 8; 1923 c 172 § 18; RRS § 3862-18.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.220 Violations—Penalties.** [1981 c 312 § 6; 1923 c 172 § 19; RRS § 3862-19.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.230 Supervisor may take possession and liquidate, when—Sale of securities—Permit—Rules.** [1923 c 172 § 20; RRS § 3862-20. Formerly RCW 31.04.230 and 31.04.240.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.250 Doing business for a foreign corporation—Penalty.** [1939 c 95 § 4; 1923 c 172 § 24; RRS § 3862-24.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.260 Taxation.** [1923 c 172 § 13; RRS § 3862-13.] Repealed by 1991 c 208 § 23, effective January 1, 1992.

**31.04.270 Effect of failure to organize or commence business.** Cross-reference section, decodified January 1, 1992.

**31.04.280 Official communications.** Cross-reference section, decodified January 1, 1992.

#### Chapter 31.08

##### CONSUMER FINANCE ACT

**31.08.010 Definitions.** [1988 c 25 § 3; 1941 c 208 § 1; Rem. Supp. 1941 § 8371-1.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.020 License required.** [1977 ex.s. c 150 § 1; 1959 c 212 § 1; 1941 c 208 § 2; Rem. Supp. 1941 § 8371-2.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.030 Application for license—Fees—Assets—Bond.** [1979 c 18 § 5; 1977 ex.s. c 150 § 2; 1959 c 212 § 2; 1941 c 208 § 3; Rem. Supp. 1941 § 8371-3. Formerly RCW 31.08.030 and 31.08.040.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.050 Investigation and action on application.** [1977 ex.s. c 150 § 3; 1941 c 208 § 4; Rem. Supp. 1941 § 8371-4.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.060 License—Contents—Posting.** [1941 c 208 § 5; Rem. Supp. 1941 § 8371-5.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.070 Additional bond.** [1979 c 18 § 6; 1977 ex.s. c 150 § 4; 1941 c 208 § 6; Rem. Supp. 1941 § 8371-6.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.080 License required for each place of business.** [1977 ex.s. c 150 § 5; 1941 c 208 § 7; Rem. Supp. 1941 § 8371-7.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.090 Annual license fee and bond.** [1977 ex.s. c 150 § 6; 1941 c 208 § 8; Rem. Supp. 1941 § 8371-8.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.100 Revocation, suspension, or surrender of license—Reinstatement—Effect.** [1988 c 25 § 4; 1941 c 208 § 9; Rem. Supp. 1941 § 8371-9. Formerly RCW 31.08.100, 31.08.110 and 31.08.120.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.130 Examinations—Cost.** [1959 c 212 § 3; 1941 c 208 § 10; Rem. Supp. 1941 § 8371-10.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.140 Records—Annual report.** [1941 c 208 § 11; Rem. Supp. 1941 § 8371-11.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.150 Prohibited acts.** [1977 ex.s. c 150 § 7; 1959 c 212 § 4; 1941 c 208 § 12; Rem. Supp. 1941 § 8371-12.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.160 Rates and charges—Splitting loans prohibited.** [1983 c 227 § 1; 1979 c 18 § 3; 1977 ex.s. c 150 § 8; 1959 c 212 § 5; 1941 c 208 § 13; Rem. Supp. 1941 § 8371-13.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.170 Statement to borrower—Receipts—Advance payments—Cancellation and release of obligations—Borrower's statement.** [1983 c 227 § 2; 1959 c 212 § 6; 1941 c 208 § 14; Rem. Supp. 1941 § 8371-14.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.173 Limitation on term of contract.** [1977 ex.s. c 150 § 9; 1959 c 212 § 10.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.175 Insurance in connection with loans.** [1979 c 18 § 4; 1975 1st ex.s. c 266 § 1; 1959 c 212 § 11.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.180 Loans in excess of two thousand five hundred dollars—Restrictions.** [1977 ex.s. c 150 § 10; 1959 c 212 § 7; 1941 c 208 § 15; Rem. Supp. 1941 § 8371-15.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.190 Assignment of earnings as loan.** [1977 ex.s. c 150 § 11; 1959 c 212 § 8; 1941 c 208 § 16; Rem. Supp. 1941 § 8371-16.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.200 Chapter governs interest rates.** [1977 ex.s. c 150 § 12; 1967 c 180 § 1; 1959 c 212 § 9; 1941 c 208 § 17; Rem. Supp. 1941 § 8371-17.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.210 Criminal acts—Penalty.** [1941 c 208 § 18; Rem. Supp. 1941 § 8371-18.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.220 Excepted activities.** [1971 ex.s. c 37 § 1; 1941 c 208 § 19; Rem. Supp. 1941 § 8371-19.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.230 Rules and regulations.** [1988 c 25 § 5; 1941 c 208 § 20; Rem. Supp. 1941 § 8371-20.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.240 Notices, how served.** [1941 c 208 § 21; Rem. Supp. 1941 § 8371-21.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.250 Effect of repeal or amendment.** [1941 c 208 § 22; Rem. Supp. 1941 § 8371-22.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.260 Appellate review.** [1988 c 202 § 31; 1971 c 81 § 81; 1941 c 208 § 23; Rem. Supp. 1941 § 8371-23.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.270 Investigation of business practices and interest rates—Subpoenas, oaths, examination of witnesses—Recommended legislation.** [1979 c 18 § 1; 1941 c 208 § 24; Rem. Supp. 1941 § 8371-24.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.900 Repeals.** [1941 c 208 § 25; Rem. Supp. 1941 § 8371-25.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.910 Severability—1941 c 208.** [1941 c 208 § 26; Rem. Supp. 1941 § 8371-26.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.911 Severability—1959 c 212.** [1959 c 212 § 12.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

**31.08.920 Short title.** [1979 c 18 § 2; 1941 c 208 § 27; Rem. Supp. 1941 § 8371-27.] Repealed by 1991 c 208 § 24, effective January 1, 1993.

## Title 35 CITIES AND TOWNS

### Chapter 35.21

#### MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

**35.21.301 Limitations on termination of service for residential beating—Report to legislature—Expiration of section.** [1990 1st ex.s. c 1 § 2; 1986 c 245 § 2; 1984 c 251 § 5.] Expired June 30, 1991.

### Chapter 35.62

#### NAME—CHANGE OF

**35.62.020 Election—Petition—Ballot.** [1965 c 7 § 35.62.020. Prior: 1925 ex.s. c 146 § 2; RRS § 8891-2.] Repealed by 1990 c 193 § 4. Later enactment, see RCW 35.62.021.

**35.62.030 Nominations of new name.** [1965 c 7 § 35.62.030. Prior: 1925 ex.s. c 146 § 3; RRS § 8891-3.] Repealed by 1990 c 193 § 4.

**35.62.040 Placing names on election ballot.** [1965 c 7 § 35.62.040. Prior: 1925 ex.s. c 146 § 4; RRS § 8891-4.] Repealed by 1990 c 193 § 4. Later enactment, see RCW 35.62.031 and 35.62.041.

**35.62.050 Results—Votes necessary.** [1965 c 7 § 35.62.050. Prior: 1925 ex.s. c 146 § 5; RRS § 8891-5.] Repealed by 1990 c 193 § 4. Later enactment, see RCW 35.62.041.

## Title 36 COUNTIES

### Chapter 36.13

#### CLASSIFICATION OF COUNTIES

**36.13.010 Counties classified by population.** [1963 c 4 § 36.13.010. Prior: 1953 c 22 § 1; 1941 c 26 § 1; 1933 c 136 § 1; 1925 ex.s. c 148 § 1; 1919 c 168 § 1; 1917 c 88 § 1; 1901 c 136 § 1; 1890 p 302 § 1; Rem. Supp. 1941 § 4200-1a.] Repealed by 1991 c 363 § 163.

**36.13.075 Classification of new or altered counties—Salaries unaffected.** [1963 c 4 § 36.13.075. Prior: 1890 p 316 § 47; RRS § 4228. Formerly RCW 36.09.060.] Repealed by 1991 c 363 § 163.

**36.13.080 Reclassification from 1940 census of seventh, eighth, and ninth class counties.** [1963 c 4 § 36.13.080. Prior: (i) 1950 ex.s. c 18 § 1. (ii) 1950 ex.s. c 18 § 2. (iii) 1950 ex.s. c 18 § 3.] Repealed by 1991 c 363 § 163.

**36.13.090 Powers of first class counties apply to class A and class AA counties.** [1963 c 4 § 36.13.090. Prior: 1953 c 22 § 2; 1921 c 133 § 1; RRS § 4204.] Repealed by 1991 c 363 § 163.

### Chapter 36.22

#### COUNTY AUDITOR

**36.22.180 State treasurer to charge for costs—Investment of funds.** [1989 c 204 § 4.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

### Chapter 36.29

#### COUNTY TREASURER

**36.29.030 Order of redemption of warrants.** [1963 c 4 § 36.29.030. Prior: 1893 c 104 § 2; 1886 p 162 § 1; Code 1881 § 2747; 1863 p 554 § 10; 1854 p 428 § 10; RRS § 4115.] Repealed by 1991 c 245 § 42.

**36.29.080 Quarterly settlement with commissioners.** [1963 c 4 § 36.29.080. Prior: 1893 c 104 § 4; 1886 p 52 § 21; Code 1881 § 2947; RRS § 4123.] Repealed by 1991 c 245 § 42.

**36.29.140 Monthly return.** [1963 c 4 § 36.29.140. Prior: 1893 c 72 § 8; RRS § 11335.] Repealed by 1991 c 245 § 42.

## Chapter 36.32

## COUNTY COMMISSIONERS

**36.32.180 Examination of accounts.** [1984 c 128 § 1; 1963 c 4 § 36.32.180. Prior: 1893 c 105 § 2; Code 1881 § 2678; 1869 p 306 § 16; 1867 p 55 § 16; 1863 p 543 § 16; 1854 p 422 § 16; RRS § 4070.] Repealed by 1991 c 245 § 42.

**36.32.271 Small works roster.** [1989 c 244 § 1.] Repealed by 1991 c 363 § 164.

**36.32.273 Small works roster—Composition.** [1989 c 244 § 2.] Repealed by 1991 c 363 § 164.

**36.32.275 Small works roster—Invitation of proposals.** [1989 c 244 § 3.] Repealed by 1991 c 363 § 164.

**36.32.277 Small works roster—Award of contract.** [1989 c 244 § 4.] Repealed by 1991 c 363 § 164.

**36.32.500 Ad hoc community councils—Proposal.** [1984 c 203 § 6.] Repealed by 1991 c 363 § 164.

**36.32.505 Ad hoc community councils—Establishment—Hearing—Adoption of ordinance.** [1984 c 203 § 7.] Repealed by 1991 c 363 § 164.

## Chapter 36.82

## ROADS AND BRIDGES—FUNDS—BUDGET

**36.82.030 County road fund—Separate account for each road district.** [1963 c 4 § 36.82.030. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450–6, part.] Repealed by 1991 c 363 § 164.

**36.82.130 Competitive bidding on purchase of equipment.** [1982 c 145 § 1; 1969 ex.s. c 182 § 13; 1963 c 4 § 36.82.130. Prior: 1937 c 187 § 47; RRS § 6450–47.] Repealed by 1991 c 363 § 164.

**36.82.150 County road budget—Department of transportation estimate of available funds.** [1984 c 7 § 35; 1963 c 4 § 36.82.150. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450–56, part.] Repealed by 1991 c 363 § 164.

## Chapter 36.93

## LOCAL GOVERNMENTAL ORGANIZATION—BOUNDARIES—REVIEW BOARDS

**36.93.920 Reduction of membership on eleven member boards.** [1969 ex.s. c 111 § 10.] Repealed by 1991 c 363 § 163.

## Title 41

## PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

## Chapter 41.04

## GENERAL PROVISIONS

**41.04.065 Receipt of retirement benefit at age seventy and one-half.** [1988 c 59 § 2.] Repealed by 1991 c 35 § 3.

## Chapter 41.06

## STATE CIVIL SERVICE LAW

**41.06.300 Consolidation of highway personnel under state personnel board and department.** [1969 c 45 § 1.] Decodified pursuant to 1990 c 60 § 402.

**41.06.320 Transfer of books, records, equipment, etc.** [1969 c 45 § 3.] Decodified pursuant to 1990 c 60 § 402.

**41.06.330 Classified employees to retain status, privileges, etc., on transfer.** [1969 c 45 § 4.] Decodified pursuant to 1990 c 60 § 402.

## Chapter 41.26

## LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

**41.26.043 Credit for CETA employment—Conditions.** [1979 ex.s. c 45 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.26.051 Law enforcement officers' and fire fighters' retirement board abolished—Transfer of powers, duties, and functions.** [1982 c 163 § 5.] Decodified pursuant to 1991 c 35 § 4.

**41.26.060 Director of retirement systems to administer system—Duties.** [1991 c 35 § 16; 1982 c 163 § 6; 1981 c 3 § 27; 1975-'76 2nd ex.s. c 44 § 3; 1971 ex.s. c 216 § 1; 1969 ex.s. c 209 § 6.] Recodified as RCW 41.50.055 pursuant to 1991 c 35 § 5.

**41.26.065 Payment of legal and medical expenses of system.** [1984 c 184 § 5.] Repealed by 1991 c 35 § 3.

**41.26.070 Washington law enforcement officers' and fire fighters' retirement funds created—Investment—Custodian—Department of retirement systems expense fund—Employer reimbursement—Legislative appropriation.** [1989 c 273 § 12; 1981 c 3 § 28; 1973 1st ex.s. c 103 § 2; 1971 ex.s. c 216 § 2; 1969 ex.s. c 209 § 7.] Repealed by 1991 c 35 § 3.

**41.26.085 Employee contributions to retirement system expense fund.** [1972 ex.s. c 131 § 5; 1971 ex.s. c 216 § 3.] Repealed by 1990 c 8 § 5.

**41.26.210 Notice for hearing required prior to petitioning for judicial review.** [1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19.] Recodified as RCW 41.26.052 pursuant to 1991 c 35 § 8.

**41.26.220 Hearing—Conduct.** [1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20.] Recodified as RCW 41.26.054 pursuant to 1991 c 35 § 8.

**41.26.230 No bond required on appeal to court.** [1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21.] Recodified as RCW 41.26.056 pursuant to 1991 c 35 § 8.

**41.26.280 Cause of action for injury or death, when.** [1991 c 35 § 28; 1971 ex.s. c 257 § 15.] Recodified as RCW 41.26.058 pursuant to 1991 c 35 § 8.

**41.26.300 Falsification—Penalty.** [1972 ex.s. c 131 § 10.] Recodified as RCW 41.26.062 pursuant to 1991 c 35 § 8.

**41.26.310 Transfer of service credit from firemen's pension system to city's police pension system.** Cross-reference section, decodified pursuant to 1991 c 35 § 4.

**41.26.320 Employer to provide information required by state actuary.** [1977 ex.s. c 294 § 19.] Repealed by 1991 c 35 § 3.

**41.26.330 Investments—Exercise of judgment and care required.** [1977 ex.s. c 251 § 8.] Repealed by 1991 c 35 § 3.

**41.26.400 Legislative finding.** [1977 ex.s. c 294 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.26.475 Members disabled before July 23, 1989—Receipt of service credit—Conditions.** [1989 c 88 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.26.560 Election to become member of system under RCW 41.26.420 through 41.26.550—Persons eligible—Rights, benefits and duties—Procedure, etc.** [1980 c 130 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.26.600 Effect of certain accumulated vacation leave on retirement benefits.** [1983 c 283 § 2.] Repealed by 1991 c 35 § 3.

**41.26.900 Severability—1969 ex.s. c 209.** [1969 ex.s. c 209 § 42.] Recodified as RCW 41.26.3901 pursuant to 1991 c 35 § 8.

**41.26.910 Act to control inconsistencies.** [1969 ex.s. c 209 § 43.] Recodified as RCW 41.26.3902 pursuant to 1991 c 35 § 8.

**41.26.920 Effective date—1969 ex.s. c 209.** [1969 ex.s. c 209 § 45.] Recodified as RCW 41.26.3903 pursuant to 1991 c 35 § 8.

## Chapter 41.32

## TEACHERS' RETIREMENT

**41.32.011** "Earnable compensation" defined for certain part-time employees—Adoption of rules. [1990 c 33 § 570; 1987 c 265 § 2.] Recodified as RCW 41.32.345 pursuant to 1991 c 35 § 9.

**41.32.015** Board of trustees abolished—Transfer of powers, duties, and functions. [1982 c 163 § 7.] Decodified pursuant to 1991 c 35 § 4.

**41.32.030** Retirement system funds. [1991 c 35 § 32; 1989 c 273 § 16; 1982 1st ex.s. c 52 § 7; 1969 ex.s. c 150 § 1; 1963 ex.s. c 14 § 2; 1955 c 274 § 2; 1947 c 80 § 3; Rem. Supp. 1947 § 4995-28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995-3, part.] Recodified as RCW 41.50.200 pursuant to 1991 c 35 § 6.

**41.32.045** Payment of legal and medical expenses of system. [1984 c 184 § 6.] Repealed by 1991 c 35 § 3.

**41.32.120** Records—Annual report. [1991 c 35 § 33; 1969 ex.s. c 150 § 4; 1947 c 80 § 12; Rem. Supp. 1947 § 4995-31. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Recodified as RCW 41.50.205 pursuant to 1991 c 35 § 6.

**41.32.130** Medical director. [1991 c 35 § 34; 1947 c 80 § 13; Rem. Supp. 1947 § 4995-32. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Recodified as RCW 41.50.210 pursuant to 1991 c 35 § 6.

**41.32.140** Actuary. [1947 c 80 § 14; Rem. Supp. 1941 § 4995-33. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1991 c 35 § 3.

**41.32.160** Rules and regulations—Trustees' powers to determine eligibility. [1991 c 35 § 35; 1955 c 274 § 3; 1947 c 80 § 16; Rem. Supp. 1947 § 4995-35. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Recodified as RCW 41.32.025 pursuant to 1991 c 35 § 9.

**41.32.170** Meetings of board. [1955 c 274 § 4; 1947 c 80 § 17; Rem. Supp. 1947 § 4995-36. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; 1923 c 187 § 6, part; 1917 c 163 § 5, part; Rem. Supp. 1941 § 4995-7, part.] Repealed by 1991 c 35 § 3.

**41.32.180** Business to be transacted—Payment of allowances. [1969 ex.s. c 150 § 5; 1947 c 80 § 18; Rem. Supp. 1947 § 4995-37. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.] Repealed by 1991 c 35 § 3.

**41.32.190** Annual interest to be credited. [1991 c 35 § 36; 1973 1st ex.s. c 189 § 7; 1955 c 274 § 5; 1947 c 80 § 19; Rem. Supp. 1947 § 4995-38. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.] Recodified as RCW 41.50.215 pursuant to 1991 c 35 § 6.

**41.32.201** Investments—General criterion specified. [1973 1st ex.s. c 103 § 3; 1961 c 297 § 2.] Repealed by 1991 c 35 § 3.

**41.32.202** Securities purchased or held for funds under state treasurer's control to be in his custody. [1973 1st ex.s. c 103 § 4; 1961 c 297 § 3.] Repealed by 1991 c 35 § 3.

**41.32.203** Duty of state treasurer as to securities in his custody—Interest, collections, payment, etc. [1969 ex.s. c 150 § 7; 1961 c 297 § 4.] Repealed by 1991 c 35 § 3.

**41.32.207** Investment of funds—Authority of state investment board. [1981 c 3 § 29; 1973 1st ex.s. c 103 § 15.] Repealed by 1991 c 35 § 3.

**41.32.220** Disbursement of funds. [1969 ex.s. c 150 § 8; 1947 c 80 § 22; Rem. Supp. 1947 § 4995-41. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.] Repealed by 1991 c 35 § 3.

**41.32.230** Member not to guarantee loans. [1991 c 35 § 37; 1947 c 80 § 23; Rem. Supp. 1947 § 4995-42. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.] Recodified as RCW 41.50.220 pursuant to 1991 c 35 § 6.

**41.32.242** Membership in system—Service credit of educational staff associates. [1991 c 35 § 39; 1984 c 256 § 2.] Recodified as RCW 41.32.032 pursuant to 1991 c 35 § 9.

**41.32.243** School nurses—Transfer of service credit—Eligibility. [1989 c 116 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.32.2431** School nurses—Optional transfer of service credit in city system—Restoration of withdrawn contributions. [1989 c 116 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.32.2432** School nurses—Transfer of service credit—Declaration—When credit granted. [1989 c 116 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.32.245** Certain physically incapacitated may enter system—Limitations. [1973 1st ex.s. c 189 § 13.] Decodified pursuant to 1991 c 35 § 4.

**41.32.250** Member's statement of service. [1967 c 50 § 1; 1947 c 80 § 25; Rem. Supp. 1947 § 4995-44. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; 1923 c 187 § 8, part; Rem. Supp. 1941 § 4995-5, part.] Decodified pursuant to 1991 c 35 § 4.

**41.32.265** Credit for CETA employment—Conditions. [1979 ex.s. c 45 § 4.] Decodified pursuant to 1991 c 35 § 4.

**41.32.280** Prior service certificate. [1967 c 50 § 3; 1955 c 274 § 9; 1947 c 80 § 28; Rem. Supp. 1947 § 4995-47. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.] Decodified pursuant to 1991 c 35 § 4.

**41.32.290** Credit for prior service in state. [1955 c 274 § 10; 1947 c 80 § 29; Rem. Supp. 1947 § 4995-48. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.] Decodified pursuant to 1991 c 35 § 4.

**41.32.310** Time limit for claiming service credit—Payments. [1974 ex.s. c 193 § 1; 1973 2nd ex.s. c 32 § 2; 1969 ex.s. c 150 § 9; 1965 ex.s. c 81 § 8; 1955 c 274 § 12; 1947 c 80 § 31; Rem. Supp. 1947 § 4995-50.] Decodified pursuant to 1991 c 35 § 4.

**41.32.320** Credit for subsequent service outside state. [1963 ex.s. c 14 § 6; 1955 c 274 § 13; 1947 c 80 § 32; Rem. Supp. 1947 § 4995-51. Prior: 1931 c 115 § 6; 1923 c 187 § 16; 1919 c 150 § 3; 1917 c 163 § 15.] Repealed by 1991 c 35 § 3.

**41.32.365** Transfer from disability reserve fund to death benefit fund. [1963 ex.s. c 14 § 9.] Decodified pursuant to 1991 c 35 § 4.

**41.32.401** Contribution rates ascertained—Request for appropriation. [1989 c 273 § 17; 1984 c 236 § 1; 1982 1st ex.s. c 52 § 9; 1980 c 87 § 15; 1963 ex.s. c 14 § 11.] Repealed by 1991 c 35 § 3.

**41.32.403** Employer contribution rates—Computation and payment. [1990 c 274 § 8; 1989 c 273 § 18; 1984 c 236 § 3.] Recodified as RCW 41.32.035 pursuant to 1991 c 35 § 9.

**41.32.405** Income fund created—Source of funds. [1991 c 35 § 50; 1984 c 236 § 2; 1982 1st ex.s. c 52 § 11; 1973 1st ex.s. c 189 § 8; 1969 ex.s. c 150 § 12.] Recodified as RCW 41.50.225 pursuant to 1991 c 35 § 6.

**41.32.420** Employer reports to board—Notice to new employees. [1991 c 35 § 51; 1983 c 56 § 14; 1975-76 2nd ex.s. c 16 § 1. Prior: 1975 1st ex.s. c 275 § 150; 1975 c 43 § 32; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995-61.] Recodified as RCW 41.50.230 pursuant to 1991 c 35 § 6.

**41.32.430** Salary deductions. [1991 c 35 § 52; 1967 c 50 § 5; 1963 ex.s. c 14 § 14; 1955 c 274 § 20; 1947 c 80 § 43; Rem. Supp. 1947 § 4995-62. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part.] Recodified as RCW 41.50.235 pursuant to 1991 c 35 § 6.

**41.32.440** Transmittal to state treasurer. [1947 c 80 § 44; Rem. Supp. 1947 § 4995-63. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part.] Repealed by 1991 c 35 § 3.

**41.32.460** Validity of deductions—Interest. [1982 1st ex.s. c 52 § 13; 1947 c 80 § 46; Rem. Supp. 1947 § 4995-65. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part.] Recodified as RCW 41.32.042 pursuant to 1991 c 35 § 9.

**41.32.486 Monthly retirement benefit—Post-retirement adjustment—Computation.** [1983 1st ex.s. c 56 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.32.491 Pension rights of existing annuitant.** [1959 c 7 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.32.492 Temporary increase of pension for certain prior pensioners.** [1959 c 7 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.32.493 Rights of former members receiving retirement allowance for service or disability on July 1, 1961.** [1967 c 151 § 2; 1961 ex.s. c 22 § 2.] Repealed by 1990 c 249 § 2.

**Savings—1990 c 249:** "The repeal of RCW 41.32.493, 41.32.4932, and 41.40.508 by section 22 of this act shall not be construed as affecting any existing right acquired under those sections or under any rule or order adopted under those sections, nor as affecting any proceedings instituted under those sections." [1990 c 249 § 23.]

**41.32.4932 Rights of former members receiving retirement allowance for service or disability—"Index", "prior pension" and "current pension" defined.** [1972 ex.s. c 147 § 2; 1970 ex.s. c 35 § 1.] Repealed by 1990 c 249 § 22.

**Savings—1990 c 249:** See note following RCW 41.32.493.

**41.32.494 Increase of pension for certain pensioners—1961 ex.s. c 22.** [1961 ex.s. c 22 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.32.4943 Funds required for payment of certain benefits to be provided in accordance with RCW 41.32.401.** [1982 1st ex.s. c 52 § 14; 1975 1st ex.s. c 148 § 1; 1972 ex.s. c 147 § 3; 1970 ex.s. c 35 § 7.] Decodified pursuant to 1991 c 35 § 4.

**41.32.4944 Funds required for payment of benefits to elected and appointed officials under RCW 41.32.497 and 41.32.498.** [1973 1st ex.s. c 189 § 5.] Repealed by 1991 c 35 § 3.

**41.32.560 Rights of existing recipients of disability allowances.** [1955 c 274 § 29; 1947 c 80 § 56; Rem. Supp. 1947 § 4995-75. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.] Decodified pursuant to 1991 c 35 § 4.

**41.32.561 Rights of persons receiving disability allowances on July 1, 1961.** [1967 c 151 § 3; 1961 c 132 § 6.] Decodified pursuant to 1991 c 35 § 4.

**41.32.565 Future benefits as contractual rights for persons retiring after April 25, 1973.** [1973 1st ex.s. c 190 § 1.] Repealed by 1991 c 35 § 3.

**41.32.567 Increase in pension portion of retirement allowance.** [1982 1st ex.s. c 52 § 16; 1974 ex.s. c 193 § 8.] Decodified pursuant to 1991 c 35 § 4.

**41.32.580 Retired teacher may reenter system—Benefit limitations.** [1973 2nd ex.s. c 32 § 5; 1947 c 80 § 58; Rem. Supp. 1947 § 4995-77.] Recodified as RCW 41.32.044 pursuant to 1991 c 35 § 9.

**41.32.583 Transfer of publicly elected official members to public employees' retirement system.** [1972 ex.s. c 147 § 5.] Decodified pursuant to 1991 c 35 § 4.

**41.32.590 Exemption from taxation and judicial process—Exceptions—Nonassignability—Deductions authorized.** [1991 c 35 § 63; 1989 c 360 § 25; 1987 c 326 § 23; 1982 c 135 § 1; 1981 c 294 § 13; 1979 ex.s. c 205 § 5; 1971 c 63 § 1; 1961 c 132 § 5; 1947 c 80 § 59; Rem. Supp. 1947 § 4995-78. Prior: 1937 c 22 § 9; 1917 c 163 § 19.] Recodified as RCW 41.32.052 pursuant to 1991 c 35 § 9.

**41.32.600 Office at capitol.** [1947 c 80 § 60; Rem. Supp. 1947 § 4995-79.] Repealed by 1991 c 35 § 3.

**41.32.610 Appeal by claimant.** [1947 c 80 § 61; Rem. Supp. 1947 § 4995-80. Prior: 1937 c 221 § 11, part; 1923 c 187 § 25, part; 1917 c 163 § 24, part.] Repealed by 1991 c 35 § 3.

**Reviser's note:** RCW 41.32.610 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.620 Appeal by five members.** [1947 c 80 § 62; Rem. Supp. 1947 § 4995-81. Prior: 1937 c 221 § 11, part; 1917 c 163 § 24, part.] Repealed by 1991 c 35 § 3.

**Reviser's note:** RCW 41.32.620 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.630 Transcript and papers to superior court.** [1947 c 80 § 63; Rem. Supp. 1947 § 4995-82. Prior: 1937 c 221 § 11, part; 1923 c 187 § 25, part; 1917 c 163 § 24, part.] Repealed by 1991 c 35 § 3.

**Reviser's note:** RCW 41.32.630 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.650 Appeal.** [1971 c 81 § 104; 1947 c 80 § 65; Rem. Supp. 1947 § 4995-84. Prior: 1937 c 221 § 11, part; 1923 c 187 § 25, part; 1917 c 163 § 24, part.] Repealed by 1991 c 35 § 3.

**41.32.670 Falsification—Penalty.** [1947 c 80 § 67; Rem. Supp. 1947 § 4995-86. Prior: 1937 c 221 § 10.] Recodified as RCW 41.32.055 pursuant to 1991 c 35 § 9.

**41.32.750 Legislative finding.** [1977 ex.s. c 293 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.32.830 Duties of payroll officer.** [1977 ex.s. c 293 § 17.] Recodified as RCW 41.50.240 pursuant to 1991 c 35 § 6.

**41.32.850 Effect of certain accumulated vacation leave on retirement benefits.** [1983 c 283 § 3.] Recodified as RCW 41.32.062 pursuant to 1991 c 35 § 9.

#### Chapter 41.40

#### WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

**41.40.011 Effective date of certain subsections.** [1973 1st ex.s. c 190 § 15.] Decodified pursuant to 1991 c 35 § 4.

**41.40.022 Retirement board abolished—Transfer of powers, duties, and functions.** [1982 c 163 § 8.] Decodified pursuant to 1991 c 35 § 4.

**41.40.072 Investment of funds—Authority of state investment board.** [1981 c 3 § 30; 1973 1st ex.s. c 103 § 16.] Repealed by 1991 c 35 § 3.

**41.40.075 Investment of funds in farm, soil, water conservation loans.** [1981 c 3 § 31; 1959 c 91 § 2.] Repealed by 1991 c 35 § 3.

**41.40.077 Investments—Exercise of judgment and care required.** [1977 ex.s. c 251 § 9.] Repealed by 1991 c 35 § 3.

**41.40.080 Custody of securities and funds—Duty of treasurer—Retirement system funds—Department of retirement systems expense fund.** [1991 c 35 § 72; 1989 c 273 § 21; 1981 c 3 § 32; 1969 c 128 § 4; 1963 c 174 § 6; 1955 c 220 § 2; 1953 c 200 § 3; 1949 c 240 § 5; 1947 c 274 § 9; Rem. Supp. 1949 § 11072-9.] Recodified as RCW 41.50.250 pursuant to 1991 c 35 § 7.

**41.40.083 Payment of legal and medical expenses of system.** [1991 c 35 § 73; 1984 c 184 § 7.] Recodified as RCW 41.50.255 pursuant to 1991 c 35 § 7.

**41.40.090 Pecuniary interest and dealings by officers and employees.** [1947 c 274 § 10; Rem. Supp. 1947 § 11072-10.] Repealed by 1991 c 35 § 3.

**41.40.100 System funds created.** [1991 c 35 § 74; 1982 1st ex.s. c 52 § 18; 1973 1st ex.s. c 190 § 4; 1972 ex.s. c 151 § 2; 1967 c 127 § 2; 1963 c 174 § 7; 1953 c 200 § 4; 1949 c 240 § 6; 1947 c 274 § 11; Rem. Supp. 1949 § 11072-11.] Recodified as RCW 41.50.260 pursuant to 1991 c 35 § 7.

**41.40.110 Report of the state treasurer—Statement of account in employees' savings fund furnished member.** [1991 c 35 § 74; 1947 c 274 § 12; Rem. Supp. 1947 § 11072-12.] Recodified as RCW 41.50.265 pursuant to 1991 c 35 § 7.

**41.40.120 Membership.** [1990 c 274 § 10; 1990 c 192 § 4; 1988 c 109 § 25; 1987 c 379 § 1; 1986 c 317 § 5; 1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 §

3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13.] Recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

**41.40.123 Nonelective position employees employed for at least nine months—Deemed in eligible position, when.** [1980 c 112 § 2.] Recodified as RCW 41.40.028 pursuant to 1991 c 35 § 10.

**41.40.130 Information furnished by employees, appointive and elective officials.** [1991 c 35 § 76; 1949 c 240 § 8; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-14.] Recodified as RCW 41.04.032 pursuant to 1991 c 35 § 10.

**41.40.135 Membership—CETA employees—Restrictions.** [1979 ex.s. c 45 § 6.] Decodified pursuant to 1991 c 35 § 4.

**41.40.138 Credit for CETA employment—Conditions.** [1979 ex.s. c 45 § 7.] Decodified pursuant to 1991 c 35 § 4.

**41.40.155 Change of employment—Protection of rights.** [1951 c 50 § 17.] Repealed by 1991 c 35 § 3.

**41.40.165 Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials.** [1987 c 146 § 1; 1977 ex.s. c 295 § 17; 1975-'76 2nd ex.s. c 34 § 4.] Recodified as RCW 41.40.035 pursuant to 1991 c 35 § 10.

**41.40.1982 Annual cost-of-living adjustment not contractual entitlement.** Cross-reference section, decodified pursuant to 1991 c 35 § 4.

**41.40.199 Monthly retirement benefit—Post-retirement adjustment—Computation.** [1983 1st ex.s. c 56 § 4.] Decodified pursuant to 1991 c 35 § 4.

**41.40.223 Duty disability retirement recipients—Continued service credit.** [1987 c 118 § 1; 1986 c 176 § 2.] Recodified as RCW 41.40.038 pursuant to 1991 c 35 § 10.

**41.40.225 Temporary disability of department of corrections employees—Continued service credit.** [1986 c 176 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.40.340 Members agree to deductions.** [1991 c 35 § 89; 1977 ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35.] Recodified as RCW 41.40.042 pursuant to 1991 c 35 § 10.

**41.40.350 Transmittal of total of members' deductions.** [1991 c 35 § 90; 1977 ex.s. c 295 § 19; 1947 c 274 § 36; Rem. Supp. 1947 § 11072-36.] Recodified as RCW 41.50.270 pursuant to 1991 c 35 § 7.

**41.40.361 Employer's additional contribution.** [1989 c 273 § 22; 1986 c 268 § 4; 1973 1st ex.s. c 190 § 13; 1972 ex.s. c 151 § 14; 1971 ex.s. c 271 § 11; 1963 c 174 § 15; 1961 c 291 § 11; 1957 c 231 § 4. Prior: 1953 c 200 § 18; 1951 c 50 § 12; 1949 c 240 § 25; 1947 c 274 § 37; Rem. Supp. 1949 § 11072-37.] Recodified as RCW 41.40.045 pursuant to 1991 c 35 § 10.

**41.40.370 Employer's contribution—Computation—Billing.** [1989 c 273 § 23; 1986 c 268 § 5; 1985 c 138 § 1; 1982 1st ex.s. c 52 § 22; 1979 c 151 § 63; 1977 ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38.] Recodified as RCW 41.40.048 pursuant to 1991 c 35 § 10.

**41.40.380 Exemption from taxation and judicial process—Exceptions—Assignability—Deductions authorized.** [1991 c 35 § 92; 1989 c 360 § 27; 1988 c 107 § 20; 1987 c 326 § 24; 1982 c 135 § 2; 1981 c 294 § 14; 1979 ex.s. c 205 § 6; 1974 ex.s. c 195 § 4; 1967 c 127 § 6; 1947 c 274 § 39; Rem. Supp. 1947 § 11072-39.] Recodified as RCW 41.40.052 pursuant to 1991 c 35 § 10.

**41.40.400 Penalty for false statements.** [1947 c 274 § 41; Rem. Supp. 1947 § 11072-41.] Recodified as RCW 41.40.055 pursuant to 1991 c 35 § 10.

**41.40.403 Transfer of service credit from state-wide city employees' retirement system.** [1987 c 417 § 1; 1984 c 184 § 9.] Recodified as RCW 41.40.058 pursuant to 1991 c 35 § 10.

**41.40.405 Entry of former state-wide city employees' retirement system members.** [1989 c 273 § 28; 1971 c 75 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.40.406 Entry of former state-wide city employees' retirement system members—Disposition of former system's assets and obligations—Transfer of assets on employees' behalf to system funds.** [1971 c 75 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.40.407 Entry of former state-wide city employees' retirement system members—Benefits for persons under former system—Option—Assumption of liabilities of former system.** [1971 c 75 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.40.410 Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system.** [1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42.] Recodified as RCW 41.40.062 pursuant to 1991 c 35 § 10.

**41.40.411 School districts to provide OASI protection and benefits for employee members.** [1965 c 84 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.40.412 Hearing prior to appeal—Required—Notice.** [1991 c 35 § 94; 1969 c 128 § 14; 1963 c 174 § 17; 1953 c 200 § 22.] Recodified as RCW 41.40.068 pursuant to 1991 c 35 § 10.

**41.40.414 Hearing prior to appeal—Conduct.** [1989 c 175 § 87; 1969 c 128 § 15; 1953 c 200 § 23.] Recodified as RCW 41.40.073 pursuant to 1991 c 35 § 10.

**41.40.420 Judicial review in accordance with Administrative Procedure Act.** [1989 c 175 § 88; 1969 c 128 § 16; 1963 c 174 § 18; 1953 c 200 § 20; 1951 c 50 § 14.] Recodified as RCW 41.40.078 pursuant to 1991 c 35 § 10.

**41.40.440 Appeal—No bond required.** [1991 c 35 § 95; 1971 c 81 § 105; 1951 c 50 § 16.] Recodified as RCW 41.40.082 pursuant to 1991 c 35 § 10.

**41.40.450 School district employees—Service credit—Computation provisions.** [1991 c 35 § 96; 1990 c 274 § 4; 1989 c 289 § 2; 1987 c 136 § 1; 1983 c 69 § 2; 1973 c 23 § 1.] Recodified as RCW 41.40.088 pursuant to 1991 c 35 § 10.

**41.40.500 Optional entry of WSU classified employees—Definitions.** [1973 1st ex.s. c 168 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.40.501 Optional entry of WSU classified employees—Transfer authorized—When membership mandatory.** [1973 1st ex.s. c 168 § 2.] Decodified pursuant to 1991 c 35 § 4.

**41.40.502 Optional entry of WSU classified employees—Amounts to be transferred.** [1973 1st ex.s. c 168 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.40.503 Optional entry of WSU classified employees—Deficiency payments.** [1973 1st ex.s. c 168 § 4.] Decodified pursuant to 1991 c 35 § 4.

**41.40.504 Optional entry of WSU classified employees—Retention of rights and benefits under retirement plan.** [1973 1st ex.s. c 168 § 5.] Decodified pursuant to 1991 c 35 § 4.

**41.40.505 Optional entry of WSU classified employees—Voluntary relinquishment of rights to employer contributions transferred.** [1973 1st ex.s. c 168 § 6.] Decodified pursuant to 1991 c 35 § 4.

**41.40.506 Optional entry of WSU classified employees—Employee share rights upon termination from system prior to death.** [1973 1st ex.s. c 168 § 7.] Decodified pursuant to 1991 c 35 § 4.

**41.40.507 Optional entry of WSU classified employees—Rules and regulations.** [1973 1st ex.s. c 168 § 8.] Decodified pursuant to 1991 c 35 § 4.

**41.40.508 Optional entry of WSU classified employees—Deficiency payments through reduction in retirement allowance.** [1973 1st ex.s. c 168 § 9.] Repealed by 1990 c 249 § 22.

**Savings—1990 c 249:** See note following RCW 41.32.493.

**41.40.509 Transfer of membership credit from Retirement Plan of former classified employees of WSU employed by U of W—Authorized—Amounts—Deficiency.** [1980 c 112 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.40.515** Optional entry of classified employees of University of Washington, the regional universities, and The Evergreen State College—Definitions. [1983 c 3 § 96; 1977 ex.s. c 169 § 97; 1974 ex.s. c 195 § 5.] Decodified pursuant to 1991 c 35 § 4.

**41.40.516** Optional entry of classified employees of University of Washington, the regional universities, and The Evergreen State College—Transfer authorized—When membership mandatory—Election. [1977 ex.s. c 169 § 98; 1974 ex.s. c 195 § 6.] Decodified pursuant to 1991 c 35 § 4.

**41.40.517** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Amounts to be transferred. [1977 ex.s. c 169 § 99; 1974 ex.s. c 195 § 7.] Decodified pursuant to 1991 c 35 § 4.

**41.40.518** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Deficiency payments. [1974 ex.s. c 195 § 8.] Decodified pursuant to 1991 c 35 § 4.

**41.40.519** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Voluntary relinquishment of rights to employer contributions transferred. [1977 ex.s. c 169 § 100; 1974 ex.s. c 195 § 9.] Decodified pursuant to 1991 c 35 § 4.

**41.40.520** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Employee share rights upon termination from system prior to death. [1977 ex.s. c 169 § 101; 1974 ex.s. c 195 § 10.] Decodified pursuant to 1991 c 35 § 4.

**41.40.521** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Recovery of credit for prior service to establish eligibility. [1977 ex.s. c 169 § 102; 1974 ex.s. c 195 § 11.] Decodified pursuant to 1991 c 35 § 4.

**41.40.522** Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Rules and regulations. [1974 ex.s. c 195 § 12.] Decodified pursuant to 1991 c 35 § 4.

**41.40.527** Recovery of higher education service credit earned prior to July 1, 1953. [1986 c 317 § 4.] Decodified pursuant to 1991 c 35 § 4.

**41.40.530** Transfer of cadet service credit to Washington state patrol retirement system. [1983 c 81 § 3.] Recodified as RCW 41.40.092 pursuant to 1991 c 35 § 10.

**41.40.535** Transfer of reestablished service credit from state patrol retirement system. [1986 c 154 § 3.] Decodified pursuant to 1991 c 35 § 4.

**41.40.540** Transfer of membership from judicial retirement system. [1988 c 109 § 5.] Recodified as RCW 41.40.095 pursuant to 1991 c 35 § 10.

**41.40.542** Transfer of former service from judicial retirement system. [1988 c 109 § 6.] Recodified as RCW 41.40.098 pursuant to 1991 c 35 § 10.

**41.40.600** Legislative finding. [1977 ex.s. c 295 § 1.] Decodified pursuant to 1991 c 35 § 4.

**41.40.800** Effect of certain accumulated vacation leave on retirement benefits. [1983 c 283 § 4.] Recodified as RCW 41.40.102 pursuant to 1991 c 35 § 10.

**41.40.810** Chapter not applicable to officers and employees of state convention and trade center. [1984 c 210 § 6.] Recodified as RCW 41.40.105 pursuant to 1991 c 35 § 10.

#### Chapter 41.54

#### PORTABILITY OF PUBLIC RETIREMENT BENEFITS

**41.54.060** Application of chapter to retirement systems in certain first class cities. [1987 c 192 § 6.] Repealed by 1990 c 192 § 6.

## Title 43 STATE GOVERNMENT—EXECUTIVE

### Chapter 43.19

#### DEPARTMENT OF GENERAL ADMINISTRATION

**43.19.537** Definitions. [1988 c 175 § 1; 1982 c 61 § 1.] Repealed by 1991 c 297 § 19.

### Chapter 43.20A

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES

**43.20A.440** Limitation on actions to enforce vendor overpayment debts. [1987 c 283 § 15.] Recodified as RCW 43.20B.688 pursuant to 1990 c 100 § 9.

### Chapter 43.20B

#### REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

**43.20B.130** Recovery of medical care costs for recipients sixty-five or older—Exceptions—Lien. Cross-reference section, decodified June 1990.

**43.20B.687** Vendor overpayments—Limitation on actions to enforce. Cross-reference section, decodified June 1990.

### Chapter 43.31

#### DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

**43.31.083** Business assistance center established. [1987 c 348 § 2.] Repealed by 1990 c 297 § 10, effective June 30, 1994.

**43.31.085** Business assistance center—Duties. [1989 c 430 § 2; 1987 c 348 § 3; 1985 c 466 § 11.] Repealed by 1990 c 297 § 10, effective June 30, 1994.

**43.31.087** Business assistance center—Reports. [1987 c 348 § 4.] Repealed by 1990 c 297 § 10, effective June 30, 1994.

**43.31.089** Business assistance center coordinating task force. [1987 c 348 § 5.] Repealed by 1990 c 297 § 10, effective June 30, 1994.

**43.31.552** Committee for recycling markets. [1989 c 431 § 100.] Repealed by 1991 c 319 § 213.

**43.31.554** Committee to make recommendations. [1989 c 431 § 101.] Repealed by 1991 c 319 § 213.

**43.31.556** Committee—Contracting authority—Report—Termination. [1990 c 127 § 1; 1989 c 431 § 102.] Repealed by 1991 c 319 § 213.

**43.31.958** Bond anticipation notes—Cultural facilities construction account—Deposit of proceeds from bonds and notes—Earnings. [1985 c 57 § 31; 1979 ex.s. c 260 § 2.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

### Chapter 43.43

#### WASHINGTON STATE PATROL

**43.43.170** Investment of funds. [1981 c 3 § 36; 1969 c 12 § 2; 1965 c 8 § 43.43.170. Prior: 1955 c 222 § 1; 1947 c 250 § 6; Rem. Supp. 1947 § 6362-86.] Repealed by 1991 c 35 § 3.

**43.43.175** Custody, sale, of securities—Disposition of proceeds. [1981 c 3 § 37; 1965 c 8 § 43.43.175. Prior: 1955 c 222 § 2.] Repealed by 1991 c 35 § 3.

**43.43.180** Duty of state treasurer. [1965 c 8 § 43.43.180. Prior: 1947 c 250 § 7; Rem. Supp. 1947 § 6362-87.] Repealed by 1991 c 35 § 3.

**43.43.190** Limitation on interest of board member. [1965 c 8 § 43.43.190. Prior: 1947 c 250 § 8; Rem. Supp. 1947 § 6362-88.] Repealed by 1991 c 35 § 3.

**43.43.225** Payment of legal and medical expenses of retirement system. [1984 c 184 § 8.] Repealed by 1991 c 35 § 3.

**Chapter 43.79**  
**STATE FUNDS**

**43.79.415 Federal revenue sharing trust fund.** [1974 ex.s. c 53 § 1; 1973 1st ex.s. c 129 § 1.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 43.831**

**DEPARTMENT OF FISHERIES—BOND ISSUES**

**43.831.166 Proceeds deposited in fisheries capital projects account—Exception—Earnings.** [1985 c 57 § 50; 1979 ex.s. c 224 § 4.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 43.84**

**INVESTMENTS AND INTERFUND LOANS**

**43.84.090 Deposit of portion of income in state general fund.** [1990 2nd ex.s. c 1 § 203; 1990 c 106 § 5; 1985 c 233 § 5; 1981 c 242 § 2; 1975-'76 2nd ex.s. c 123 § 1; 1969 c 50 § 1; 1967 c 66 § 1; 1965 ex.s. c 82 § 1; 1965 c 8 § 43.84.090. Prior: 1935 c 91 § 2; RRS § 5508-2.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 43.99C**

**HANDICAPPED FACILITIES BOND ISSUE**

**43.99C.040 1979 handicapped facilities construction account—Deposit of proceeds—Exception—Earnings.** [1985 c 57 § 55; 1979 ex.s. c 221 § 7.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

**Chapter 43.131**

**WASHINGTON SUNSET ACT**

**43.131.249 Board of pharmacy—Termination.** [1984 c 153 § 15; 1982 c 223 § 3.] Repealed by 1990 c 83 § 2.

**43.131.250 Board of pharmacy—Repeal.** [1984 c 153 § 16; 1982 c 223 § 7.] Repealed by 1990 c 83 § 2.

**43.131.256 Termination of agencies and programs—Review under Sunset Act.** [1983 c 197 § 1.] Repealed by 1990 c 297 § 27.

**43.131.269 Public disclosure commission—Termination.** [1986 c 272 § 1; 1983 c 197 § 8.] Repealed by 1990 c 297 § 27.

**43.131.270 Public disclosure commission—Repeal.** [1986 s 272 § 2; 1983 c 197 § 34.] Repealed by 1990 c 297 § 27.

**43.131.301 Nursing home advisory council—Termination.** [1990 c 297 § 3; 1988 c 288 § 4; 1986 c 270 § 3; 1983 c 197 § 24.] Recodified as RCW 18.51.910 pursuant to 1990 c 297 § 28.

**43.131.302 Nursing home advisory council—Repeal.** [1990 c 297 § 4; 1988 c 288 § 5; 1986 c 270 § 4; 1983 c 197 § 50.] Recodified as RCW 18.51.911 pursuant to 1990 c 297 § 28.

**43.131.303 Emergency medical services committee—Termination.** [1990 c 297 § 5; 1988 c 288 § 6; 1986 c 270 § 5; 1983 c 197 § 25.] Recodified as RCW 18.73.920 pursuant to 1990 c 297 § 28.

**43.131.304 Emergency medical services committee—Repeal.** [1990 c 297 § 6; 1988 c 288 § 7; 1986 c 270 § 6; 1983 c 197 § 51.] Recodified as RCW 18.73.921 pursuant to 1990 c 297 § 28.

**43.131.315 Washington ambassador program—Termination.** [1988 c 35 § 5; 1985 c 466 § 72; 1984 c 175 § 12.] Repealed by 1990 c 297 § 27.

**43.131.316 Washington ambassador program—Repeal.** [1988 c 35 § 6; 1985 c 466 § 73; 1984 c 175 § 13.] Repealed by 1990 c 297 § 27.

**43.131.319 Washington council for the prevention of child abuse and neglect—Termination.** [1989 c 304 § 2; 1986 c 270 § 7; 1984 c 261 § 5.] Repealed by 1990 c 297 § 27.

**43.131.320 Washington council for the prevention of child abuse and neglect—Repeal.** [1989 c 304 § 3; 1986 c 270 § 8; 1984 c 261 § 6.] Repealed by 1990 c 297 § 27.

**43.131.323 Examining board of psychology—Termination.** [1990 c 297 § 7; 1988 c 288 § 8; 1986 c 27 § 11; 1985 c 7 § 109; 1984 c 279 § 94.] Recodified as RCW 18.83.910 pursuant to 1990 c 297 § 28.

**43.131.325 Small business export finance assistance center—Termination.** [1985 c 231 § 10.] Repealed by 1991 c 177 § 1.

**43.131.326 Small business export finance assistance center—Repeal.** [1985 c 231 § 11.] Repealed by 1991 c 177 § 1.

**43.131.331 Career executive program—Termination.** [1988 c 288 § 13; 1985 c 118 § 1.] Repealed by 1990 c 297 § 27.

**43.131.332 Career executive program—Repeal.** [1988 c 288 § 14; 1985 c 118 § 2.] Repealed by 1990 c 297 § 27.

**43.131.335 Regulation of occupational therapy—Termination.** [1985 c 296 § 2.] Repealed by 1990 c 13 § 2.

**43.131.336 Regulation of occupational therapy—Repeal.** [1985 c 296 § 3.] Repealed by 1990 c 13 § 2.

**43.131.339 Washington sunrise act—Expiration.** [1987 c 342 § 10.] Repealed by 1990 c 297 § 27.

**43.131.343 Business assistance center—Termination.** [1990 c 297 § 9; 1987 c 348 § 16.] Recodified as RCW 43.31.091 pursuant to 1990 c 297 § 28.

**43.131.344 Business assistance center—Repeal.** [1990 c 297 § 10; 1987 c 348 § 17.] Recodified as RCW 43.31.092 pursuant to 1990 c 297 § 28.

**43.131.345 Business improvement council—Termination.** [1987 c 348 § 18.] Repealed by 1990 c 297 § 27.

**43.131.346 Business improvement council—Repeal.** [1987 c 348 § 19.] Repealed by 1990 c 297 § 27.

**43.131.349 Regulation of radiologic technologists—Termination.** [1990 c 6 § 1; 1987 c 412 § 18.] Repealed by 1991 c 222 § 13, effective July 1, 1991.

**43.131.350 Regulation of radiologic technologists—Repeal.** [1990 c 6 § 2; 1987 c 412 § 19.] Repealed by 1991 c 222 § 13, effective July 1, 1991.

**43.131.351 Naturopathy—Termination.** [1990 c 297 § 11; 1987 c 447 § 21.] Recodified as RCW 18.36A.910 pursuant to 1990 c 297 § 28.

**43.131.352 Naturopathy—Repeal.** [1990 c 297 § 12; 1987 c 447 § 22.] Recodified as RCW 18.36A.911 pursuant to 1990 c 297 § 28.

**43.131.357 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Termination.** [1990 c 297 § 13; 1987 c 512 § 25.] Recodified as RCW 18.19.910 pursuant to 1990 c 297 § 28.

**43.131.358 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Repeal.** [1990 c 297 § 14; 1987 c 512 § 26.] Recodified as RCW 18.19.911 pursuant to 1990 c 297 § 28.

**43.131.359 Migratory waterfowl art committee—Termination.** [1988 c 186 § 3.] Recodified as RCW 77.12.900 pursuant to 1990 c 297 § 28.

**43.131.360 Migratory waterfowl art committee—Repeal.** [1988 c 186 § 4.] Recodified as RCW 77.12.901 pursuant to 1990 c 297 § 28.

**43.131.361 Public works board—Termination.** [1988 c 186 § 5.] Repealed by 1990 c 297 § 27.

**43.131.362 Public works board—Repeal.** [1988 c 186 § 6.] Repealed by 1990 c 297 § 27.

**43.131.363 State economic development board—Terminated.** [1988 c 186 § 9.] Recodified as RCW 43.240.910 pursuant to 1990 c 297 § 28.

**43.131.364 State economic development board—Repeal.** [1988 c 186 § 10.] Recodified as RCW 43.240.911 pursuant to 1990 c 297 § 28.

## Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS  
AND GRANTS

**43.160.076** Grants and loans in distressed counties. [1991 c 314 § 24; 1985 c 446 § 6.] Repealed by 1991 c 314 § 32, effective June 30, 1993.

## Chapter 43.185

## HOUSING ASSISTANCE FOR LOW-INCOME PERSONS

**43.185.040** Investment of housing trust fund revenues. [1986 c 298 § 5.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

## Title 44

## STATE GOVERNMENT—LEGISLATIVE

## Chapter 44.28

## LEGISLATIVE BUDGET COMMITTEE

**44.28.170** Drug enforcement and education—Funding—Report. [1989 c 271 § 604.] Repealed by 1990 c 275 § 6.

## Title 46

## MOTOR VEHICLES

## Chapter 46.09

## OFF-ROAD AND NONHIGHWAY VEHICLES

**46.09.290** Earnings of ORV and nonhighway vehicle account. [1986 c 206 § 14.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

## Chapter 46.12

## CERTIFICATES OF OWNERSHIP AND REGISTRATION

**46.12.125** Procedure when transferor to a dealer is from out of state or car in inventory. [1972 ex.s. c 99 § 4.] Repealed by 1990 c 238 § 8, effective May 1, 1990.

## Chapter 46.16

## VEHICLE LICENSES

**46.16.083** Converter gear—Optional methods of licensing. [1986 c 18 § 7; 1969 ex.s. c 170 § 4; 1961 c 12 § 46.16.083. Prior: 1959 c 319 § 22; 1955 c 384 § 9.] Repealed by 1991 c 163 § 6.

**46.16.310** Vehicles over forty years old—"Horseless carriage" licenses. [1988 c 15 § 1; 1982 c 143 § 1; 1971 ex.s. c 114 § 1; 1961 c 12 § 46.16.310. Prior: 1955 c 100 § 1.] Repealed by 1990 c 250 § 12, effective January 1, 1991. Cf. RCW 46.16.305.

**46.16.311** "Horseless Carriage" plates on vehicles manufactured after 1931. [1971 ex.s. c 114 § 2.] Repealed by 1990 c 250 § 12, effective January 1, 1991.

**46.16.315** Collector's vehicle older than thirty years—Special plates—Fees, disposition. [1971 ex.s. c 114 § 3.] Repealed by 1990 c 250 § 12, effective January 1, 1991. Cf. RCW 46.16.305.

**46.16.320** Amateur radio operator plates—Fees—Deposit. [1975 1st ex.s. c 118 § 10; 1969 ex.s. c 206 § 1; 1967 ex.s. c 145 § 80; 1967 c 32 § 21; 1961 c 12 § 46.16.320. Prior: 1957 c 145 § 1.] Repealed by 1990 c 250 § 12, effective January 1, 1991. Cf. RCW 46.16.305.

**46.16.330** Amateur radio operator plates—Disposition of plates upon transfer of interest in vehicle. [1967 c 32 § 22; 1961 c 12 § 46.16.330. Prior: 1957 c 145 § 2.] Repealed by 1990 c 250 § 12, effective January 1, 1991.

**46.16.620** Congressional Medal of Honor recipients—Special license plates. [1979 ex.s. c 77 § 1.] Repealed by 1990 c 250 § 12, effective January 1, 1991. Cf. RCW 46.16.305.

**46.16.625** Pearl Harbor survivors—Special license plates. [1987 c 44 § 1.] Repealed by 1990 c 250 § 12, effective January 1, 1991. Cf. RCW 46.16.305.

**46.16.660** State centennial license plates—Fleet issuance. [1986 c 280 § 2.] Repealed by 1990 c 250 § 12, effective January 1, 1991.

## Chapter 46.20

## DRIVERS' LICENSES—IDENTICARDS

**46.20.171** Records of applications, suspensions, or revocations, drivers' records. [1979 ex.s. c 136 § 55; 1965 ex.s. c 121 § 19.] Repealed by 1990 c 250 § 86.

**46.20.416** Driving while in suspended or revoked status—Penalty. [1985 c 302 § 4; 1975-'76 2nd ex.s. c 29 § 3.] Repealed by 1990 c 250 § 86.

**46.20.418** Driving while in suspended or revoked status—Extension of suspension—Delay in issuing new license. [1975-'76 2nd ex.s. c 29 § 4.] Repealed by 1990 c 250 § 86.

**46.20.599** Alcohol violators—Confiscation of license, issuance of temporary license. [1985 c 352 § 2; 1984 c 219 § 2.] Repealed by 1990 c 250 § 86.

## Chapter 46.29

## FINANCIAL RESPONSIBILITY

**46.29.625** Driving when license suspended or revoked until proof of ability to respond in damages furnished—Penalty. [1969 ex.s. c 281 § 21.] Repealed by 1991 c 293 § 10.

## Chapter 46.65

## WASHINGTON HABITUAL TRAFFIC OFFENDERS ACT

**46.65.090** Unlawful operation of motor vehicle by habitual offender—Penalty. [1990 c 210 § 7; 1985 c 302 § 8; 1979 c 62 § 6; 1977 ex.s. c 138 § 1; 1971 ex.s. c 284 § 11.] Repealed by 1991 c 293 § 10.

## Title 47

PUBLIC HIGHWAYS AND  
TRANSPORTATION

## Chapter 47.17

## STATE HIGHWAY ROUTES

**47.17.245** State route No. 126. [1970 ex.s. c 51 § 50.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.270** State route No. 140. [1970 ex.s. c 51 § 55.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.415** State route No. 209. [1970 ex.s. c 51 § 84.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.420** State route No. 220. [1971 ex.s. c 73 § 11; 1970 ex.s. c 51 § 85.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.450** State route No. 232. [1979 ex.s. c 33 § 12; 1970 ex.s. c 51 § 91.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.453** State route No. 237. [1975 c 63 § 11.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.555** State route No. 304. [1970 ex.s. c 51 § 112.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.590** State route No. 403. [1970 ex.s. c 51 § 119.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.600** State route No. 407. [1970 ex.s. c 51 § 121.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.620** State route No. 431. [1970 ex.s. c 51 § 125.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.700** State route No. 514. [1971 ex.s. c 73 § 17; 1970 ex.s. c 51 § 141.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

**47.17.810** State route No. 603. [1970 ex.s. c 51 § 163.] Repealed by 1991 c 342 § 65, effective April 1, 1992.

#### Chapter 47.42

### HIGHWAY ADVERTISING CONTROL ACT—SCENIC VISTAS ACT

**47.42.046** Specific information panels—Interstate right of way—"Gas," "Food," or "Lodging"—Directional information—Individual business signs. [1987 c 469 § 3; 1986 c 114 § 1; 1985 c 142 § 1; 1984 c 7 § 223; 1974 ex.s. c 80 § 2.] Recodified as RCW 47.36.310 pursuant to 1991 c 94 § 6.

**47.42.047** Specific information panels, tourist-oriented directional signs—Primary and scenic systems right of way—"Gas," "Food," "Recreation," "Lodging"—Directional information—Individual business signs. [1986 c 114 § 2; 1985 c 376 § 4; 1985 c 142 § 2; 1984 c 7 § 224; 1974 ex.s. c 80 § 4.] Recodified as RCW 47.36.320 pursuant to 1991 c 94 § 6.

**47.42.0475** Specific information panels—Maximum signs and distances. [1985 c 142 § 3.] Recodified as RCW 47.36.330 pursuant to 1991 c 94 § 6.

**47.42.052** Supplemental directional signs—Erection by local governments. [1986 c 114 § 3.] Recodified as RCW 47.36.300 pursuant to 1991 c 94 § 6.

**47.42.160** State park directional signs. [1985 c 376 § 7.] Recodified as RCW 47.36.290 pursuant to 1991 c 94 § 6.

**47.42.170** Lodging activity listings—Eligibility. [1985 c 376 § 8.] Recodified as RCW 47.36.340 pursuant to 1991 c 94 § 6.

#### Chapter 47.56

### STATE TOLL BRIDGES, TUNNELS, AND FERRIES

**47.56.365** Repayment of 1961 appropriation for Hood Canal bridge—Continuation of tolls. [1961 ex.s. c 9 § 7; 1961 c 10 § 3.] Repealed by 1990 c 42 § 410, effective April 1, 1990.

**47.56.712** Spokane river toll bridges—Refunding bonds—Amount, determination by state finance committee—Maturity date—Interest rates—Signatures—Registration—Statement describing nature of obligation—Negotiable instruments—Sources of payment—Account created in highway bond retirement fund—Deposit of revenue—Repayment procedure—Pledge of excise taxes—Legislative covenant—Amount and duration of tolls—Priority of payments—Trust fund—Covenants by state finance committee. [1979 c 131 § 2.] Repealed by 1990 c 42 § 403, effective September 1, 1990.

**47.56.713** Spokane river toll bridges—Liquidation of existing bond and revenue funds—Redemption of outstanding bonds—Transfer of moneys. [1979 c 131 § 3.] Repealed by 1990 c 42 § 403, effective September 1, 1990.

**47.56.714** Spokane river toll bridges—Exemption from prohibition against construction of other bridges—Conditions. [1979 c 131 § 4.] Repealed by 1990 c 42 § 403, effective September 1, 1990.

**47.56.715** Spokane river toll bridges—Repayment of motor vehicle fund—Continuation of tolls. [1979 c 131 § 5.] Repealed by 1990 c 42 § 403, effective September 1, 1990.

**47.56.716** Spokane river toll bridges—Refunding bonds—Lien against fuel tax revenues. [1979 c 131 § 6.] Repealed by 1990 c 42 § 403, effective September 1, 1990.

#### Chapter 47.60

### PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

**47.60.160** Reimbursement of motor vehicle fund. [1984 c 7 § 312; 1961 c 13 § 47.60.160. Prior: 1949 c 179 § 5, part; Rem. Supp. 1949 § 6584-34, part.] Repealed by 1990 c 42 § 410, effective April 1, 1990.

**47.60.540** Puget Sound ferry operations account—Transfer of excess funds. [1984 c 7 § 334; 1972 ex.s. c 24 § 4.] Repealed by 1990 c 78 § 1.

**47.60.543** Repayment of motor vehicle fund from Puget Sound capital construction account and ferry operations account. [1979 c 27 § 7.] Repealed by 1990 c 42 § 410, effective April 1, 1990.

## Title 48 INSURANCE

### Chapter 48.17

#### AGENTS, BROKERS, SOLICITORS, AND ADJUSTERS

**48.17.440** Report of losses. [1947 c 79 § .17.44; Rem. Supp. 1947 § 45.17.44.] Repealed by 1990 1st ex.s. c 3 § 15.

**48.17.590** Procedures for cancelling written agreements between companies and agents. [1986 c 286 § 1.] Repealed by 1990 c 121 § 2. Cf. RCW 48.18.285.

### Chapter 48.46

#### HEALTH MAINTENANCE ORGANIZATIONS

**48.46.230** Surety bond, securities deposit—Amount—Waiver—Substitution of securities—Adjustment of amount. [1982 c 151 § 2.] Repealed by 1990 c 119 § 12.

### Chapter 48.62

#### LOCAL GOVERNMENT INSURANCE TRANSACTIONS

**48.62.010** Legislative finding—Intent. [1985 c 277 § 1; 1979 ex.s. c 256 § 1.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.020** "Local governmental entity" defined. [1979 ex.s. c 256 § 2.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.030** Risk management, claims, administrative services. [1985 c 277 § 2; 1983 c 59 § 17; 1979 ex.s. c 256 § 3.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.035** Self-funded plans for educational employees. [1985 c 277 § 3.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.040** Joint action by local governmental entities. [1986 c 302 § 1; 1985 c 278 § 1; 1979 ex.s. c 256 § 4.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.050** Joint self-insurance pool—Approval by state risk manager required—Procedure. [1989 c 175 § 114; 1979 ex.s. c 256 § 5.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.060** Joint self-insurance pool—Provision for contingent liability of participants—Exemptions from certain taxes and laws. [1979 ex.s. c 256 § 6.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.070** Joint self-funding, self-insurance pool—Assets, permissible investments. [1988 c 281 § 4; 1985 c 277 § 4; 1979 ex.s. c 256 § 7.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.080** Joint self-funding, self-insurance pool—Assets, method of investment. [1985 c 277 § 5; 1979 ex.s. c 256 § 8.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.090** Joint self-insurance pool—Operating and coverage requirements. [1979 ex.s. c 256 § 9.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.100** Joint self-funding, self-insurance pool—Powers enumerated. [1985 c 277 § 6; 1979 ex.s. c 256 § 10.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.110** Joint self-funding, self-insurance pool—Private meetings—Liability reserve amount protected from discovery. [1985 c 277 § 7; 1979 ex.s. c 256 § 11.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

**48.62.120** Joint self-insurance pool—Contracting with insurance agents or brokers. [1979 ex.s. c 256 § 12.] Repealed by 1991 1st sp.s. c 30 § 33, effective January 1, 1992.

## Title 49 LABOR REGULATIONS

### Chapter 49.46 MINIMUM WAGE ACT

**49.46.025** College student exemption. [1961 ex.s. c 18 § 5.] Repealed by 1990 c 149 § 1.

## Title 51 INDUSTRIAL INSURANCE

### Chapter 51.12 EMPLOYMENTS AND OCCUPATIONS COVERED

**51.12.115** Registered contractors and electrical contractors—Sole proprietor or partner—Exemption. [1981 c 128 § 5.] Repealed by 1991 c 246 § 8, effective January 1, 1992.

### Chapter 51.16 ASSESSMENT AND COLLECTION OF PREMIUMS—PAYROLLS AND RECORDS

**51.16.115** Failure to comply with cash deposit or bond requirements of RCW 51.16.110. [1986 c 9 § 7.] Repealed by 1991 c 88 § 5.

## Title 53 PORT DISTRICTS

### Chapter 53.12 COMMISSIONERS—ELECTIONS

**53.12.040** Declarations of candidacy, except districts in class AA county—Place of filing. [1965 c 51 § 4; 1959 c 175 § 2; 1959 c 17 § 7. Prior: 1951 c 69 § 2; 1913 c 62 § 2, part; 1911 c 92 § 3, part; RRS § 9690, part. Cf. 1923 c 53 § 5; RRS § 5148-1.] Repealed by 1991 c 363 § 163.

**53.12.044** Declarations of candidacy, except districts in class AA and class A counties—Time of filing. [1963 c 200 § 21; 1959 c 175 § 4; 1951 c 69 § 3.] Repealed by 1991 c 363 § 163.

**53.12.055** Primaries in class AA and A counties. [1965 c 51 § 5; 1959 c 175 § 10.] Repealed by 1991 c 363 § 163.

**53.12.160** Elections in districts less than entire county. [1963 c 200 § 19; 1951 c 68 § 1; 1941 c 17 § 1; 1935 c 133 § 1; Rem. Supp. 1941 § 9691A-1.] Repealed by 1991 c 363 § 163.

**53.12.210** Elections in districts covering entire county. [1963 c 200 § 20; 1941 c 45 § 1; 1925 ex.s. c 113 § 1; Rem. Supp. 1941 § 9691-1.] Repealed by 1991 c 363 § 163.

### Chapter 53.31 EXPORT TRADING COMPANIES

**53.31.010** Legislative findings—Intent. [1986 c 276 § 1.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.020** Definitions. [1991 c 363 § 133; 1986 c 276 § 2.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.030** Export trading companies—Authorized—Adoption of business plan. [1986 c 276 § 3.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.040** Export trading companies—Powers—Formation—Dissolution. [1989 c 11 § 23; 1986 c 276 § 4.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.050** Confidentiality of records supplied by private persons. [1986 c 276 § 5.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.060** Certificate of review under federal export trading company act—Authorized. [1986 c 276 § 6.] Repealed by 1990 c 297 § 23, effective June 30, 1995.

**53.31.900** Expiration of chapter—Review. [1989 c 425 § 13; 1986 c 276 § 10.] Repealed by 1990 c 297 § 26.

## Title 54 PUBLIC UTILITY DISTRICTS

### Chapter 54.16 POWERS

**54.16.286** Limitations on termination of utility service for residential heating—Report to legislature—Expiration of section. [1990 1st ex.s. c 1 § 4; 1986 c 245 § 4; 1984 c 251 § 6.] Expired June 30, 1991.

## Title 59 LANDLORD AND TENANT

### Chapter 59.21 MOBILE HOME RELOCATION ASSISTANCE

**59.21.090** Relocation fund—Insufficient moneys—Loans. [1989 c 201 § 13.] Repealed by 1990 c 171 § 12.

### Chapter 59.22 OFFICE OF MOBILE HOME AFFAIRS—RESIDENT-OWNED MOBILE HOME PARKS

**59.22.900** Repeal of chapter. [1987 c 482 § 12.] Repealed by 1991 c 327 § 18, effective July 1, 1991.

## Title 60 LIENS

### Chapter 60.04 MECHANICS' AND MATERIALMEN'S LIENS

**60.04.010** Lien authorized—Bond by railroad company. [1975 c 34 § 3; 1971 ex.s. c 94 § 2; 1959 c 279 § 1; 1905 c 116 § 1; 1893 c 24 § 1; RRS § 1129. Prior: Code 1881 § 1957; 1877 p 219 § 19; 1873 p 441 § 2; 1863 p 419 § 1; 1860 p 286 § 1; 1854 p 392 § 1.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.020** Notice that materialmen's lien may be claimed. [1984 c 202 § 4; 1977 ex.s. c 57 § 1; 1969 ex.s. c 84 § 1; 1965 c 98 § 1; 1959 c 279 § 2; 1959 c 278 § 1; 1957 c 214 § 1; 1911 c 77 § 1; 1909 c 45 § 1; RRS § 1133.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.030** Property subject to lien. [1905 c 116 § 2; 1893 c 24 § 2; RRS § 1130. Prior: Code 1881 § 1959; 1877 p 220 § 21.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.040** Lien for improving real property. [1975 c 34 § 4; 1971 ex.s. c 94 § 3; 1959 c 279 § 3; 1929 c 230 § 1; 1893 c 24 § 3; RRS § 1131. Prior: Code 1881 § 1958; 1877 p 220 § 20.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.045** Lien on real property for labor or services on timber and lumber. [1986 c 179 § 1.] Recodified as RCW 60.24.033, pursuant to 1991 c 281 § 30, effective April 1, 1992.

**60.04.050** Priority of lien. [1975 c 34 § 5; 1959 c 279 § 4; 1893 c 24 § 4; RRS § 1132. Prior: Code 1881 § 1960; 1877 p 220 § 22.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.060** Claim—Contents—Form—Filing—Joinder. [1975 c 34 § 6; 1971 ex.s. c 94 § 1; 1959 c 279 § 5; 1949 c 217 § 1(5a); 1893 c 24 § 5; Rem. Supp. 1949 § 1134. FORMER PARTS

OF SECTION: (i) 1949 c 217 § 1(5b) now codified as RCW 60.04.064. (ii) 1949 c 217 § 1(5c) now codified as RCW 60.04.067.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.064 Owner may record notice to lien claimants.** [1959 c 279 § 6; 1949 c 217 § 1(5b); Rem. Supp. 1949 § 1134-1. Formerly RCW 60.04.060, part.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.067 Separate residential units—When time for filing lien claims commences to run—Definition.** [1975 c 34 § 7; 1959 c 279 § 7; 1949 c 217 § 1(5c); Rem. Supp. 1949 § 1134-2. Formerly RCW 60.04.060, part.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.070 Recording—Fees.** [1985 c 44 § 10; 1949 c 217 § 2; 1893 c 24 § 6; RRS § 1135. Prior: Code 1881 § 1963; 1877 p 21 § 25.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.080 Assignability.** [1893 c 24 § 7; RRS § 1136.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.090 Claims must designate amount due on property charged.** [1959 c 279 § 8; 1893 c 24 § 8; RRS § 1137. Prior: Code 1881 § 1962; 1877 p 221 § 24.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.100 Duration of lien—Limitation of action—When action commenced.** [1975 1st ex.s. c 231 § 1; 1943 c 209 § 1; 1893 c 24 § 9; RRS § 1138. Prior: 1881 § 1964; 1877 p 221 § 26; 1873 p 443 § 6; 1863 p 410 § 4; 1860 p 286 § 4; 1854 p 392 § 4.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.110 Extent of contractor's right to recover—Settlements—Rights of owner.** [1975 c 34 § 8; 1959 c 279 § 9; 1893 c 24 § 10; RRS § 1139. Prior: Code 1881 § 1966; 1877 p 221 § 28.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.115 Action to enforce recorded claim of lien—Bond in lieu of claim.** [1986 c 314 § 4.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.120 Foreclosure—Parties.** [1893 c 24 § 11; RRS § 1140. Prior: Code 1881 § 1968; 1877 p 222 § 30; 1873 p 443 §§ 6, 7; 1863 pp 410, 411 §§ 4, 5; 1863 p 286 §§ 4, 5; 1854 pp 392, 393 §§ 4, 5.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.130 Rank of lien—Application of proceeds—Attorney's fees.** [1975 c 34 § 9; 1971 c 81 § 129; 1969 c 38 § 1; 1959 c 279 § 10; 1893 c 24 § 12; RRS § 1141. Prior: Code 1881 § 1967; 1877 p 222 § 29; 1873 p 443 § 8; 1863 p 420 § 6; 1860 p 287 § 6; 1854 p 393 § 6.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.140 Lien not discharged by taking note.** [1959 c 279 § 11; 1893 c 24 § 14; RRS § 1143.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.150 Material exempt from process—Exception.** [1893 c 24 § 15; RRS § 1144. Prior: Code 1881 § 1969; 1877 p 222 § 31.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.160 Effect of filing claim on community interest.** [1893 c 24 § 16; RRS § 1145.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.170 When land not subject to lien—Power of court to order removal and sale of property.** [1893 c 24 § 17; RRS § 1146.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.180 Personal action preserved.** [1959 c 279 § 12; 1893 c 24 § 13; RRS § 1142. Prior: Code 1881 § 1970; 1877 p 223 § 32.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.200 Interim or construction financing—Definitions.** [1984 c 202 § 1; 1973 1st ex.s. c 47 § 1.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.210 Interim or construction financing—Notice of lien—Duty of lender to withhold from disbursements—Liabilities of lender and lien claimant.** [1984 c 202 § 2; 1975 c 34 § 10; 1973 1st ex.s. c 47 § 2.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.04.220 Interim or construction financing—Priorities.** [1973 1st ex.s. c 47 § 3.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

#### Chapter 60.20

### LABOR AND MATERIAL LIENS FOR IMPROVING PROPERTY WITH NURSERY STOCK

**60.20.010 Liens authorized.** [1943 c 18 § 1; Rem. Supp. 1943 § 1148-1.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.20.020 Priority over encumbrances.** [1943 c 18 § 2; Rem. Supp. 1943 § 1148-2.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.20.030 Claim of lien—Contents—Joint claims.** [1955 c 239 § 1; 1943 c 18 § 3; Rem. Supp. 1943 § 1148-3.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.20.040 Recording and indexing liens.** [1943 c 18 § 4; Rem. Supp. 1943 § 1148-4.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.20.050 Rank and priority of liens.** [1943 c 18 § 5; Rem. Supp. 1943 § 1148-5.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.20.060 Foreclosure—Costs.** [1943 c 18 § 6; Rem. Supp. 1943 § 1148-6.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

#### Chapter 60.48

### LIEN FOR ENGINEERING SERVICES

**60.48.010 Lien authorized.** [1931 c 107 § 1; RRS § 1131-4.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

**60.48.020 Notice of lien—Foreclosure.** [1931 c 107 § 2; RRS § 1131-5.] Repealed by 1991 c 281 § 31, effective April 1, 1992.

## Title 67

### SPORTS AND RECREATION— CONVENTION FACILITIES

#### Chapter 67.16

### HORSE RACING

**67.16.210 Satellite wagers—Gross receipts—Commission's percentage.** [1987 c 347 § 5.] Repealed by 1991 c 270 § 13.

**67.16.220 Satellite wagers—Gross receipts—Licensee's percentage.** [1987 c 347 § 6.] Repealed by 1991 c 270 § 13.

**67.16.240 Expiration of RCW 67.16.200 through 67.16.230—Review.** [1987 c 347 § 8.] Repealed by 1990 c 297 § 26.

**67.16.910 Parimutuel wagering at satellite facilities, regulation—Termination.** [1990 c 297 § 24.] Repealed by 1991 c 270 § 13.

**67.16.911 Parimutuel wagering at satellite facilities, regulation—Repeal.** [1990 c 297 § 25.] Repealed by 1991 c 270 § 13.

#### Chapter 67.28

### PUBLIC STADIUM, CONVENTION, PERFORMING ARTS, AND VISUAL ARTS FACILITIES

**67.28.230 Special excise tax authorized—Ocean Shores—Hotel, motel, rooming house, trailer camp, etc., charges.** [1988 ex.s. c 1 § 20.] Repealed by 1991 c 331 § 4.

#### Chapter 67.70

### STATE LOTTERY

**67.70.900 Expiration of chapter—Evaluation and report.** [1987 c 511 § 16; 1982 2nd ex.s. c 7 § 34.] Repealed by 1990 c 297 § 26.

## Title 68

CEMETERIES, MORGUES AND HUMAN  
REMAINS

## Chapter 68.05

## CEMETERY BOARD

**68.05.410** "Historic grave" defined. [1989 c 44 § 4.] Repealed by 1990 c 92 § 9.

**68.05.420** Protection of historic graves—Penalty. [1989 c 44 § 5.] Recodified as RCW 68.60.050 pursuant to 1990 c 92 § 8.

## Chapter 68.50

## HUMAN REMAINS

**68.50.030** Free care and delivery of remains. [1917 c 90 § 5; RRS § 6044. Formerly RCW 68.08.030.] Repealed by 1991 c 176 § 7.

## Chapter 68.52

## PUBLIC CEMETERIES AND MORGUES

**68.52.230** Declarations of candidacy. [1947 c 6 § 15; Rem. Supp. 1947 § 3778–164. Formerly RCW 68.16.150.] Repealed by 1990 c 259 § 40.

## Title 69

FOOD, DRUGS, COSMETICS, AND  
POISONS

## Chapter 69.07

## WASHINGTON FOOD PROCESSING ACT

**69.07.090** Requirements for plants already in operation—Extension of time for compliance, when. [1967 ex.s. c 121 § 9.] Repealed by 1991 c 137 § 10.

**69.07.130** Chapter not to affect existing liabilities. [1967 ex.s. c 121 § 13.] Repealed by 1991 c 137 § 10.

## Title 70

## PUBLIC HEALTH AND SAFETY

## Chapter 70.39

HOSPITAL HEALTH CARE SERVICES—HOSPITAL  
COMMISSION

**70.39.010** Purpose of chapter—Intent of 1984 amendments. [1984 c 288 § 1; 1973 1st ex.s. c 5 § 2.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.020** Definitions. [1984 c 288 § 2; 1973 1st ex.s. c 5 § 3.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.030** Hospital commission—Created—Membership. [1984 c 288 § 3; 1973 1st ex.s. c 5 § 4.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.040** Hospital commission—Terms—Vacancies. [1984 c 288 § 4; 1977 c 36 § 1; 1973 1st ex.s. c 5 § 5.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.050** Hospital commission—Officers—Meetings—Compensation and travel expenses. [1984 c 288 § 5; 1984 c 287 § 104; 1973 1st ex.s. c 5 § 6.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.060** Hospital commission—Exempt staff—Other staff—Services. [1984 c 288 § 6; 1977 c 35 § 1; 1973 1st ex.s. c 5 § 7.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.070** Technical advisory committee—Members—Terms—Officers—Meetings—Expenses. [1984 c 288 § 7; 1984 c 125 § 17; 1973 1st ex.s. c 5 § 8.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.080** Technical advisory committee—Duties. [1984 c 288 § 8; 1973 1st ex.s. c 5 § 9.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.090** Hospital commission—Subcommittees. [1984 c 288 § 9; 1973 1st ex.s. c 5 § 10.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.100** Uniform system of hospital accounting and reporting—Collection of patient discharge data. [1984 c 288 § 10; 1973 1st ex.s. c 5 § 11.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.110** Annual reports by hospitals. [1984 c 288 § 11; 1973 1st ex.s. c 5 § 12.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.120** Hospital costs and finances—Analyses and studies—Reports. [1984 c 288 § 12; 1973 1st ex.s. c 5 § 13.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.125** Entities to furnish information to commission. [1984 c 288 § 24.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.130** Report to governor and legislature. [1987 c 505 § 58; 1984 c 288 § 13; 1977 c 75 § 82; 1973 1st ex.s. c 5 § 14.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.140** Hospital rates—Negotiated rates—Requirements—Review and investigation—Costs—Establishment of rates—Expression of rates—Hospital reimbursement control system—Certain admission practices or policies barred—Coordination with federal programs. [1988 c 118 § 1; 1984 c 288 § 14; 1974 ex.s. c 163 § 1; 1973 1st ex.s. c 5 § 15.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.144** Exemption from RCW 70.39.140—Effect. [1988 c 262 § 1.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.150** Powers and duties of commission. [1984 c 288 § 18; 1977 ex.s. c 154 § 1; 1973 1st ex.s. c 5 § 16.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.160** Changes in rates—Procedure. [1984 c 288 § 19; 1973 1st ex.s. c 5 § 17.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.165** Identification of charity care patients—Definition of residual bad debt. [1984 c 288 § 15.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.170** Budget—Expenses—Assessments—Hospital commission account—Earnings. [1991 1st sp.s. c 13 § 1; 1985 c 57 § 67; 1973 1st ex.s. c 5 § 18.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**Reviser's note:** This section was repealed on June 30, 1990, as part of the sunset of the hospital commission under RCW 43.131.254. The 1991 legislature erroneously amended this repealed section. The code reviser has decodified this section pursuant to RCW 1.12.025.

**70.39.180** Rules and regulations—Public hearings—Investigations—Subpoena power. [1973 1st ex.s. c 5 § 19.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.190** Review. [1973 1st ex.s. c 5 § 20.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.195** Schedule of hospital rates. [1984 c 288 § 23.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.200** Penalties for violations. [1984 c 288 § 20; 1973 1st ex.s. c 5 § 21.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.900** Severability—1973 1st ex.s. c 5. [1973 1st ex.s. c 5 § 22.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.910** Liberal construction—1973 1st ex.s. c 5. [1973 1st ex.s. c 5 § 23.] Repealed by 1982 c 223 § 10, effective June 30, 1990.

**70.39.920** References—1989 1st ex.s. c 9. Cross-reference section, decodified September 1991.

## Chapter 70.48

## CITY AND COUNTY JAILS ACT

**70.48.120** Local jail improvement and construction account. [1987 c 462 § 8; 1986 c 118 § 8; 1981 c 276 § 2; 1977 ex.s. c 316 § 12.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

## Chapter 70.58

## VITAL STATISTICS

**70.58.200** Forms of birth, death, marriage, and decrees of divorce, annulment, or separate maintenance certificates—Contents—Confidentiality. [1979 ex.s. c 162 § 2; 1975-'76 2nd ex.s. c 42 § 39; 1969 ex.s. c 279 § 2; 1967 c 26 § 10; 1961 ex.s. c 5 § 15; 1945 c 159 § 6; Rem. Supp. 1945 § 6024-6. Prior: 1907 c 83 § 6.] Repealed by 1991 c 96 § 6.

## Chapter 70.90

## WATER RECREATION FACILITIES

**70.90.130** Recreational water contact facility advisory committee—Established—Powers and duties. [1986 c 236 § 4.] Expired June 30, 1991, pursuant to 1986 c 236 § 15.

## Chapter 70.94

## WASHINGTON CLEAN AIR ACT

**70.94.0935** Limitation on revenues collected from sources of air pollution—Exemption. [1984 c 88 § 1.] Repealed by 1990 c 157 § 3.

**70.94.232** Local or regional control program considered activated authority—Construction of prior ordinances, resolutions, rules or regulations. [1983 c 3 § 177; 1967 c 238 § 40.] Repealed by 1991 c 199 § 718.

**70.94.680** Extension of burning permit requirements. [1971 ex.s. c 232 § 4.] Repealed by 1991 c 199 § 718.

**70.94.740** Outdoor burning—Policy. [1972 ex.s. c 136 § 1.] Repealed by 1991 c 199 § 718.

**70.94.810** Joint legislative committee on science and technology—Establishment of consultant selection committee—Duties of consultant—Interagency agreement to assist evaluation of acid rain—Amount of assistance. [1984 c 277 § 3.] Repealed by 1991 c 199 § 718.

**70.94.815** Application for money to finance evaluation. [1984 c 277 § 5.] Repealed by 1991 c 199 § 718.

**70.94.825** Department of ecology to initiate comprehensive evaluation of acid rain. [1984 c 277 § 7.] Repealed by 1991 c 199 § 718.

**70.94.870** Report to legislature on emission credits banking program. [1984 c 164 § 3.] Repealed by 1991 c 199 § 718.

## Chapter 70.105A

## HAZARDOUS WASTE FEES

**70.105A.010** Policy—Purposes. [1983 1st ex.s. c 65 § 1.] Repealed by 1990 c 114 § 21.

**70.105A.020** Definitions. [1983 1st ex.s. c 65 § 2.] Repealed by 1990 c 114 § 21.

**70.105A.030** Annual fee—When due—Graduation of fees—Rules—Apportionment of income—Exemption—Fee limitation—Adjustment. [1985 c 7 § 129; 1983 1st ex.s. c 65 § 3.] Repealed by 1990 c 114 § 21.

**70.105A.040** Annual fee for operation of facility for treating, storing, or disposing hazardous wastes—Rules—Fee limitation—Adjustment. [1983 1st ex.s. c 65 § 4.] Repealed by 1990 c 114 § 21.

**70.105A.050** Disposition of fees. [1983 1st ex.s. c 65 § 5.] Repealed by 1990 c 114 § 21.

**70.105A.060** Use of funds in the hazardous waste control and elimination account—Additional departmental powers—Actions by attorney general authorized. [1983 1st ex.s. c 65 § 6.] Repealed by 1990 c 114 § 21.

**70.105A.070** Review of fee—Procedure. [1983 1st ex.s. c 65 § 7.] Repealed by 1990 c 114 § 21.

**70.105A.080** Unpaid fees—Interest—Civil penalties—Maximum—Actions by attorney general authorized. [1983 1st ex.s. c 65 § 8.] Repealed by 1990 c 114 § 21.

**70.105A.090** Revenue for general fund reimbursement for site cleanup and restoration. [1983 1st ex.s. c 65 § 13.] Repealed by 1990 c 114 § 21.

**70.105A.900** Severability—Construction of chapter—Implementation. [1983 1st ex.s. c 65 § 9.] Repealed by 1990 c 114 § 21.

**70.105A.905** Effective dates—Proration of 1983 fee—1983 1st ex.s. c 65. [1983 1st ex.s. c 65 § 15.] Repealed by 1990 c 114 § 21.

## Chapter 70.120

## MOTOR VEHICLE EMISSION CONTROL

**70.120.110** Vehicle inspections—Violations—Penalty. [1989 c 240 § 7; 1985 c 7 § 131; 1979 ex.s. c 163 § 12.] Repealed by 1991 c 199 § 718.

**70.120.140** Ambient air monitoring in Portland-Vancouver metropolitan area. [1987 c 505 § 62; 1980 c 176 § 5.] Repealed by 1991 c 199 § 718.

**70.120.900** Expiration date of chapter. [1989 c 240 § 9.] Repealed by 1991 c 199 § 718.

## Chapter 70.148

## UNDERGROUND PETROLEUM STORAGE TANKS

**70.148.100** Full implementation prohibited pending further legislation. [1989 c 383 § 11.] Repealed by 1990 c 64 § 13.

## Chapter 70.180

## RURAL HEALTH CARE

**70.180.007** Finding—Midwives, pharmacy services. [1990 c 271 § 5.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.010** Definitions. [1990 c 271 § 6.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.050** Rural physician, pharmacist, and midwife scholarship program. [1990 c 271 § 7.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.060** Planning committee—Screening and selection of recipients. [1990 c 271 § 8.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.070** Scholarships—Generally. [1990 c 271 § 10.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.080** Technical assistance to sponsoring communities. [1990 c 271 § 11.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.090** Participant duties regarding client's ability to pay. [1990 c 271 § 12.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.100** Repayment of scholarships. [1990 c 271 § 13.] Repealed by 1991 1st sp.s. c 27 § 2.

**70.180.910** Governor may transfer administration of program. [1990 c 271 § 19.] Repealed by 1991 1st sp.s. c 27 § 2.

## Title 71

## MENTAL ILLNESS

## Chapter 71.24

## COMMUNITY MENTAL HEALTH SERVICES ACT

**71.24.800** Pilot program—Impact of case management services for certain persons released from state or community hospital—Termination June 30, 1989. [1987 c 439 § 4.] Repealed by 1991 c 306 § 6.

## Title 72 STATE INSTITUTIONS

### Chapter 72.02 ADULT CORRECTIONS

**72.02.180** Inmate population limits for institutions at Monroe. [1988 c 143 § 4; 1985 c 350 § 2; 1981 c 136 § 109. Formerly RCW 72.12.160.] Repealed by 1990 c 302 § 1.

**72.02.190** Inmate population limit for correction center at Shelton. [1988 c 143 § 14.] Repealed by 1990 c 302 § 1.

### Chapter 72.40 STATE SCHOOLS FOR BLIND, DEAF, SENSORY HANDICAPPED

**72.40.115** School for the deaf—School for the blind—Appropriations. [1985 c 378 § 26.] Repealed by 1991 c 65 § 2, effective July 1, 1991.

## Title 74 PUBLIC ASSISTANCE

### Chapter 74.04 GENERAL PROVISIONS—ADMINISTRATION

**74.04.390** Community work and training program—Defined. [1979 c 141 § 315; 1963 c 228 § 6; 1961 c 269 § 2.] Repealed by 1991 c 126 § 11.

**74.04.400** Community work and training program—Rules and regulations. [1979 c 141 § 316; 1963 c 228 § 7; 1961 c 269 § 3.] Repealed by 1991 c 126 § 11.

**74.04.410** Community work and training program—Agreements with governmental entities for employment of eligible persons—Amount of earnings. [1979 c 141 § 317; 1963 c 228 § 8; 1961 c 269 § 4.] Repealed by 1991 c 126 § 11.

**74.04.420** Community work and training program—Denial or suspension of assistance—Grounds. [1979 c 141 § 318; 1963 c 228 § 9; 1961 c 269 § 5.] Repealed by 1991 c 126 § 11.

**74.04.430** Community work and training program—Approval of program by department—Workers' compensation. [1987 c 185 § 39; 1979 c 141 § 319; 1963 c 228 § 10; 1961 c 269 § 6.] Repealed by 1991 c 126 § 11.

**74.04.440** Community work and training program—Governmental entity to furnish transportation, tools, supervision. [1963 c 228 § 11; 1961 c 269 § 7.] Repealed by 1991 c 126 § 11.

**74.04.450** Community work and training program—Work to serve useful public purpose and not displace regular workers. [1963 c 228 § 12.] Repealed by 1991 c 126 § 11.

**74.04.460** Community work and training program—Effect as to employment security program. [1963 c 228 § 13.] Repealed by 1991 c 126 § 11.

**74.04.470** Community work and training program—Department may terminate agreements. [1979 c 141 § 320; 1963 c 228 § 14.] Repealed by 1991 c 126 § 11.

**74.04.473** Community work and training program for recipients of aid to families with dependent children. [1983 1st ex.s. c 41 § 41.] Repealed by 1991 c 126 § 11.

**74.04.477** Community work and training program for food stamp recipients. [1983 1st ex.s. c 41 § 42.] Repealed by 1991 c 126 § 11.

**74.04.505** Food stamp program—Eligibility. [1969 ex.s. c 172 § 5.] Repealed by 1991 c 126 § 11.

### Chapter 74.09 MEDICAL CARE

**74.09.182** Chapter does not apply where another party liable—Statement of lien—Form. [1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9.] Recodified as RCW 43.20B.040 pursuant to 1990 c 100 § 10.

**74.09.184** Chapter does not apply where another party liable—Lien effective upon being filed. [1969 ex.s. c 173 § 10.] Repealed by 1990 c 100 § 12.

**74.09.186** Chapter does not apply where another party liable—Settlement between recipient and tortfeasor and/or insurer—Lien not discharged—Exceptions. [1990 c 100 § 4; 1969 ex.s. c 173 § 12.] Recodified as RCW 43.20B.050 pursuant to 1990 c 100 § 10.

**74.09.750** Recovery of costs of medical care provided to recipients sixty-five or older authorized—Exceptions—Lien. [1987 c 283 § 13.] Recodified as RCW 43.20B.140 pursuant to 1990 c 100 § 11.

### Chapter 74.22 WORK INCENTIVE PROGRAM FOR RECIPIENTS OF PUBLIC ASSISTANCE

**74.22.010** Purpose—Program consistent with federal law, when. [1969 c 14 § 1.] Repealed by 1991 c 126 § 11.

**74.22.020** Employables, others, referred to department of employment security. [1979 c 141 § 372; 1969 c 14 § 2.] Repealed by 1991 c 126 § 11.

**74.22.030** Employability plan—Service categories. [1969 c 14 § 3.] Repealed by 1991 c 126 § 11.

**74.22.040** Special work projects—Agreements, requisites of. [1969 c 14 § 4.] Repealed by 1991 c 126 § 11.

**74.22.050** Special work projects—Participants in project, wages—Interdepartmental payments—Supplemental earnings payments. [1979 c 141 § 373; 1969 c 14 § 5.] Repealed by 1991 c 126 § 11.

**74.22.060** Training, incentive payments for—Federal law controls. [1969 c 14 § 6.] Repealed by 1991 c 126 § 11.

**74.22.070** Payment of costs incidental to participation in program authorized. [1979 c 141 § 374; 1969 c 14 § 7.] Repealed by 1991 c 126 § 11.

**74.22.080** Good cause for refusal of employment under program. [1969 c 14 § 8.] Repealed by 1991 c 126 § 11.

**74.22.090** Good cause for refusal to participate in training or a special work project under program. [1969 c 14 § 9.] Repealed by 1991 c 126 § 11.

**74.22.100** Refusal to participate as basis for denying public assistance—Procedure. [1979 c 141 § 375; 1969 c 14 § 10.] Repealed by 1991 c 126 § 11.

**74.22.110** Transfer of funds between departments authorized—Rules and regulations. [1979 c 141 § 376; 1969 c 14 § 11.] Repealed by 1991 c 126 § 11.

**74.22.120** Acceptance of funds authorized. [1969 c 14 § 12.] Repealed by 1991 c 126 § 11.

### Chapter 74.23 WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

**74.23.005** Compliance with federal act. [1969 c 15 § 1.] Repealed by 1991 c 126 § 11.

**74.23.010** Purpose. [1969 c 15 § 2.] Repealed by 1991 c 126 § 11.

**74.23.020** Departments authorized to participate in and administer program consistent with federal law. [1979 c 141 § 377; 1969 c 15 § 3.] Repealed by 1991 c 126 § 11.

**74.23.030** Institutional and training programs and special work projects—Requisites of. [1969 c 15 § 4.] Repealed by 1991 c 126 § 11.

**74.23.040** Individuals referred to appropriate public agencies. [1979 c 141 § 378; 1969 c 15 § 5.] Repealed by 1991 c 126 § 11.

**74.23.050** Department's scope in placement of referrals. [1969 c 15 § 6.] Repealed by 1991 c 126 § 11.

**74.23.060** Training incentives paid disregarded for public assistance purposes. [1969 c 15 § 7.] Repealed by 1991 c 126 § 11.

**74.23.070** Special work projects—Participants' wages—Interdepartmental payments—Supplemental earnings payments. [1979 c 141 § 379; 1969 c 15 § 8.] Repealed by 1991 c 126 § 11.

**74.23.080** Good cause for refusal of employment under program. [1969 c 15 § 9.] Repealed by 1991 c 126 § 11.

**74.23.090** Good cause for refusal to participate in training or a special work project under program. [1969 c 15 § 10.] Repealed by 1991 c 126 § 11.

**74.23.100** Refusal to participate as basis for denying public assistance—Procedure—Notice—Appeal—Hearings. [1969 c 15 § 11.] Repealed by 1991 c 126 § 11.

**74.23.110** Refusal to participate as basis for denying public assistance—Payments discontinued, when—Protective payments. [1979 c 141 § 380; 1969 c 15 § 12.] Repealed by 1991 c 126 § 11.

**74.23.120** Departmental authorization—Transfer of funds between departments—Rules and regulations. [1979 c 141 § 381; 1969 c 15 § 13.] Repealed by 1991 c 126 § 11.

**74.23.900** Severability—Conflict with federal requirements. [1969 c 15 § 14.] Repealed by 1991 c 126 § 11.

#### Chapter 74.42

### NURSING HOMES—RESIDENT CARE, OPERATING STANDARDS

**74.42.610** Department to assess resident's needs. [1980 c 177 § 85; 1979 ex.s. c 211 § 61.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

#### Chapter 74.46

### NURSING HOME AUDITING AND COST REIMBURSEMENT ACT OF 1980

**74.46.710** Trust fund accounts—Charges for medical services. [1983 1st ex.s. c 67 § 37; 1980 c 177 § 71.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

**74.46.720** Petty cash fund. [1983 1st ex.s. c 67 § 38; 1980 c 177 § 72.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

**74.46.730** Trust moneys control, disbursement. [1980 c 177 § 73.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

**74.46.740** Trust moneys availability. [1980 c 177 § 74.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

**74.46.750** Procedure for refunding trust money. [1980 c 177 § 75.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

**74.46.760** Liquidation of trust fund. [1985 c 7 § 149; 1980 c 177 § 76.] Repealed by 1991 1st sp.s. c 8 § 20, effective July 1, 1991.

## Title 75

### FOOD FISH AND SHELLFISH

#### Chapter 75.48

### SALMON ENHANCEMENT FACILITIES—BOND ISSUE

**75.48.030** Disposition of proceeds—Salmon enhancement construction account—Earnings. [1985 c 57 § 73; 1983 1st ex.s. c 46 § 163; 1977 ex.s. c 308 § 3.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

## Title 77

### GAME AND GAME FISH

#### Chapter 77.12

### POWERS AND DUTIES

**77.12.195** Firearm range account. [1988 c 263 § 9.] Repealed by 1990 c 195 § 7.

**77.12.660** Joint select committee on threatened and endangered species—Report. [1984 c 239 § 4.] Repealed by 1990 c 84 § 8.

## Title 79

### PUBLIC LANDS

#### Chapter 79.01

### PUBLIC LANDS ACT

**79.01.135** Contract for sale of rock, gravel, etc.—Royalties—Consideration of flood protection value. [1984 c 212 § 10.] Recodified as RCW 79.90.325 pursuant to 1991 c 322 § 27.

#### Chapter 79.64

### FUNDS FOR MANAGING AND ADMINISTERING LANDS

**79.64.055** Interest—Apportionment—Disposition. [1967 ex.s. c 63 § 3.] Repealed by 1991 1st sp.s. c 13 § 122, effective July 1, 1991.

#### Chapter 79.71

### WASHINGTON NATURAL RESOURCES CONSERVATION AREAS

**79.71.110** Conservation area account. [1987 c 472 § 11.] Repealed by 1991 c 352 § 11.

#### Chapter 79.90

### AQUATIC LANDS—IN GENERAL

**79.90.140** Road material—Sale to public authorities—Dispositions of proceeds. [1982 1st ex.s. c 21 § 20.] Repealed by 1991 c 322 § 28; and repealed by 1991 c 337 § 2.

## Title 80

### PUBLIC UTILITIES

#### Chapter 80.28

### GAS, ELECTRICAL, AND WATER COMPANIES

**80.28.011** Limitations on termination of utility service for residential heating—Reports to legislature—Expiration of section. [1990 1st ex.s. c 1 § 6; 1986 c 245 § 6; 1984 c 251 § 7.] Expired June 30, 1991.

#### Chapter 80.36

### TELECOMMUNICATIONS

**80.36.480** Lifeline service—Legislative review. [1987 c 229 § 10.] Repealed by 1990 c 170 § 9.

**80.36.550** Enhanced state-wide 911 service—Advisory committee. [1990 c 260 § 3.] Repealed by 1991 c 54 § 15.

**80.36.5501** Enhanced state-wide 911 service—Study. [1990 c 260 § 2.] Repealed by 1991 c 54 § 15.

## Title 81 TRANSPORTATION

### Chapter 81.34

#### RAILROADS—STATE AND FEDERAL REGULATION

**81.34.010** Policy of Interstate Commerce Commission to be followed in certain areas. [1984 c 143 § 10.] Repealed by 1991 c 49 § 1.

**81.34.020** Relationship between this chapter and federal law. [1984 c 143 § 11.] Repealed by 1991 c 49 § 1.

**81.34.030** Rates—Market dominance. [1984 c 143 § 12.] Repealed by 1991 c 49 § 1.

**81.34.040** Rates—Unreasonable discrimination. [1984 c 143 § 13.] Repealed by 1991 c 49 § 1.

**81.34.050** Suspension of schedule, classification, rule, or regulation. [1984 c 143 § 14.] Repealed by 1991 c 49 § 1.

**81.34.060** Rate increases—Rules—Adjusted base rate. [1984 c 143 § 15.] Repealed by 1991 c 49 § 1.

**81.34.070** Contracts for services and rates—Filing—Approval, disapproval. [1984 c 143 § 16.] Repealed by 1991 c 49 § 1.

**81.34.080** Contracts for services and rates—Review proceeding. [1984 c 143 § 17.] Repealed by 1991 c 49 § 1.

**81.34.090** Limitation of liability. [1984 c 143 § 18.] Repealed by 1991 c 49 § 1.

**81.34.100** Rates for recyclable or recycled materials. [1984 c 143 § 19.] Repealed by 1991 c 49 § 1.

**81.34.110** Exemptions from chapter. [1984 c 143 § 20.] Repealed by 1991 c 49 § 1.

**81.34.900** Severability—1984 c 143. [1984 c 143 § 25.] Decodified pursuant to 1991 c 49 § 2.

### Chapter 81.44

#### COMMON CARRIERS—EQUIPMENT

**81.44.150** Track scale—Testing. [1961 c 14 § 81.44.150. Prior: 1911 c 117 § 19; RRS § 10355.] Repealed by 1990 c 27 § 2.

**81.44.160** Regulations for weighing. [1961 c 14 § 81.44.160. Prior: 1911 c 117 § 60; RRS § 10396.] Repealed by 1990 c 27 § 2.

## Title 82 EXCISE TAXES

### Chapter 82.01

#### DEPARTMENT OF REVENUE

**82.01.120** Economic and revenue forecast supervisor—Economic and revenue forecasts—Submittal of forecasts. [1990 c 229 § 2; 1987 c 505 § 79; 1987 c 502 § 10; 1986 c 112 § 2; 1984 c 138 § 1.] Recodified as RCW 82.33.020 pursuant to 1990 c 229 § 5, effective July 1, 1990.

**82.01.125** Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee. [1984 c 138 § 3.] Recodified as RCW 82.33.030 pursuant to 1990 c 229 § 5, effective July 1, 1990.

**82.01.130** Economic and revenue forecast council—Oversight and approval of economic and revenue forecasts—Alternative forecasts. [1990 c 229 § 1; 1984 c 138 § 4.] Recodified as RCW 82.33.010 pursuant to 1990 c 229 § 5, effective July 1, 1990.

**82.01.135** Economic and revenue forecast work group—Availability of information to group—Provision of technical support to economic and revenue forecast council—Meetings. [1986 c 158 § 23; 1984 c 138 § 5.] Recodified as RCW 82.33.040 pursuant to 1990 c 229 § 5, effective July 1, 1990.

### Chapter 82.14

#### COUNTIES, CITIES AND METROPOLITAN MUNICIPAL CORPORATIONS—RETAIL SALES AND USE TAXES

**82.14.315** County criminal justice assistance account—Distributions based on population—Expiration of section. [1991 c 311 § 2; 1990 2nd ex.s. c 1 § 103.] Expired July 1, 1991.

### Chapter 82.14B

#### COUNTIES—TAX ON TELEPHONE ACCESS LINE USE

**82.14B.080** Emergency service communication districts—Hearing—Election. [1987 c 17 § 2.] Repealed by 1991 c 54 § 15.

### Chapter 82.44

#### MOTOR VEHICLE EXCISE TAX

**82.44.013** Fair market value—Exclusions. [1983 c 200 § 6.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.44.041.

**82.44.040** Schedule to be prepared—Basis of tax. [1979 c 158 § 231; 1975 1st ex.s. c 118 § 12; 1975 1st ex.s. c 278 § 94; 1961 c 15 § 82.44.040. Prior: 1955 c 189 § 1; 1943 c 144 § 4; Rem. Supp. 1943 § 6312–118; prior: 1937 c 228 § 3.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.44.041.

**82.44.045** Schedule to include campers—Appraisal. [1979 c 158 § 232; 1975 1st ex.s. c 118 § 13; 1971 ex.s. c 299 § 52.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.44.041.

**82.44.050** Independent appraisal of unlisted vehicles. [1981 c 222 § 11; 1963 c 199 § 3; 1961 c 15 § 82.44.050. Prior: 1943 c 144 § 5; Rem. Supp. 1943 § 6312–119; prior: 1937 c 228 § 4.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.44.041.

### Chapter 82.50

#### MOBILE HOMES, TRAVEL TRAILERS, AND CAMPERS EXCISE TAX

**82.50.420** Classification and schedule—Basis. [1971 ex.s. c 299 § 57.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.50.425.

**82.50.430** Amount on unclassified travel trailers or campers. [1971 ex.s. c 299 § 58.] Repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.50.425.

## Title 84 PROPERTY TAXES

### Chapter 84.04

#### DEFINITIONS

**84.04.043** "Board of equalization". [1979 c 107 § 26.] Repealed by 1991 c 245 § 43.

### Chapter 84.08

#### GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

**84.08.110** Department to compile tax laws. [1975 1st ex.s. c 278 § 154; 1961 c 15 § 84.08.110. Prior: 1907 c 220 § 3; RRS § 11096.] Repealed by 1991 c 245 § 43.

### Chapter 84.22

#### CURRENT USE VALUATION OF LOW-INCOME HOUSING

**84.22.005** Legislative declaration. [1990 c 168 § 1.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.010** Definitions. [1990 c 168 § 2.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.020** Ordinance or resolution prerequisite to current use valuation. [1990 c 168 § 3.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.030** Classification as "devoted to low-income housing." [1990 c 168 § 4.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.040** Applications for classification—Term of classification—Fee. [1990 c 168 § 5.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.050** Grant or denial of classification—Assessment rolls. [1990 c 168 § 6.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.060** Computation of value of property. [1990 c 168 § 7.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.070** Submission of information for continued eligibility. [1990 c 168 § 8.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.080** Classification—Withdrawal. [1990 c 168 § 9.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.090** Change in use—Tax and penalty. [1990 c 168 § 10.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.100** Additional tax and penalty—Interest—Lien. [1990 c 168 § 11.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.110** Tax, penalty, interest—Due date—Distribution. [1990 c 168 § 12.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.120** Removal of classification. [1990 c 168 § 13.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.130** Appeal of a grant or denial of classification. [1990 c 168 § 14.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.140** Rulemaking. [1990 c 168 § 15.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.150** Median income data. [1990 c 168 § 16.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.900** Construction—1990 c 168. [1990 c 168 § 17.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.901** Severability—1990 c 168. [1990 c 168 § 18.] Failed to become law by reason of the rejection of 1990 SJR 8212.

**84.22.902** Contingent effective date—1990 c 168. [1990 c 168 § 21.] Failed to become law by reason of the rejection of 1990 SJR 8212.

#### Chapter 84.26

##### HISTORIC PROPERTY

**84.26.140** Application for special valuation after December 31, 1991, prohibited. [1985 c 449 § 14.] Repealed by 1990 c 297 § 29.

#### Chapter 84.28

##### REFORESTATION LANDS

**84.28.005** Purpose. [1963 c 214 § 1; 1961 c 15 § 84.28.005. Prior: 1931 c 40 § 1; RRS § 11219-1.] Decodified pursuant to 1991 c 245 § 41.

**84.28.006** Definitions. [1975 1st ex.s. c 278 § 188; 1963 c 214 § 2.] Decodified pursuant to 1991 c 245 § 41.

**84.28.010** Lands to be classified. [1963 c 214 § 3; 1961 c 15 § 84.28.010. Prior: 1931 c 40 § 2; RRS § 11219-2.] Decodified pursuant to 1991 c 245 § 41.

**84.28.020** Classification procedure—Review by department of revenue. [1975 1st ex.s. c 278 § 189; 1963 c 214 § 4; 1961 c 15 § 84.28.020. Prior: 1951 c 172 § 1; 1931 c 40 § 3; RRS § 11219-3. Formerly RCW 84.28.020, 84.28.030, and 84.28.040.] Decodified pursuant to 1991 c 245 § 41.

**84.28.050** Removal from classification—Petition of department or county assessor—Hearing. [1975 1st ex.s. c 278 § 190; 1963 c 214 § 5; 1961 c 15 § 84.28.050. Prior: 1951 c 172 § 2; 1931 c 40 § 4; RRS §

11219-4. Formerly RCW 84.28.050 and 84.28.070.] Decodified pursuant to 1991 c 245 § 41.

**84.28.060** Removal from classification—Petition of taxpayers—Hearing. [1975 1st ex.s. c 278 § 191; 1963 c 214 § 6; 1961 c 15 § 84.28.060. Prior: 1951 c 172 § 3; 1931 c 40 § 5; RRS § 11219-5.] Decodified pursuant to 1991 c 245 § 41.

**84.28.063** Removal from classification—Petition of owner. [1975 1st ex.s. c 278 § 192; 1963 c 214 § 7.] Decodified pursuant to 1991 c 245 § 41.

**84.28.065** Taxation upon removal of land from classification—Effective date of classification and removal orders. [1975 1st ex.s. c 278 § 193; 1963 c 214 § 8.] Decodified pursuant to 1991 c 245 § 41.

**84.28.080** Court review. [1988 c 202 § 68; 1971 c 81 § 152; 1963 c 214 § 9; 1961 c 15 § 84.28.080. Prior: 1931 c 40 § 6; RRS § 11219-6.] Decodified pursuant to 1991 c 245 § 41.

**84.28.090** Basis of assessment prescribed. [1973 1st ex.s. c 195 § 89; 1971 ex.s. c 299 § 33; 1963 c 214 § 10; 1961 c 15 § 84.28.090. Prior: 1931 c 40 § 7; RRS § 11219-7.] Decodified pursuant to 1991 c 245 § 41.

**84.28.095** Tax on unclassified lands. [1961 c 15 § 84.28.095. Prior: 1931 c 40 § 8; RRS § 11219-8.] Decodified pursuant to 1991 c 245 § 41.

**84.28.100** Permit to remove forest crop—Estimated stumpage rates—Bond or deposit. [1963 c 214 § 11; 1961 c 15 § 84.28.100. Prior: 1931 c 40 § 9; RRS § 11219-9.] Decodified pursuant to 1991 c 245 § 41.

**84.28.110** Report of cutting—Yield tax—Rates—Actions to recover tax. [1988 c 202 § 69; 1971 c 81 § 153; 1963 c 214 § 12; 1961 c 15 § 84.28.110. Prior: 1939 c 206 § 33; 1931 c 40 § 10; RRS § 11219-10. Formerly RCW 84.28.110 and 84.28.120.] Decodified pursuant to 1991 c 245 § 41.

**84.28.140** Collection of yield tax—Delinquency—Lien. [1963 c 214 § 13; 1961 c 15 § 84.28.140. Prior: 1931 c 40 § 12; RRS § 11219-12.] Decodified pursuant to 1991 c 245 § 41.

**84.28.150** Reforestation land taxes exclusive—Exceptions. [1961 c 15 § 84.28.150. Prior: 1931 c 40 § 13; RRS § 11219-13.] Decodified pursuant to 1991 c 245 § 41.

**84.28.160** Rules and regulations authorized. [1975 1st ex.s. c 278 § 194; 1963 c 214 § 14; 1961 c 15 § 84.28.160. Prior: 1931 c 40 § 14; RRS § 11219-14.] Decodified pursuant to 1991 c 245 § 41.

**84.28.170** Penalty. [1961 c 15 § 84.28.170. Prior: 1931 c 40 § 15; RRS § 11219-15.] Decodified pursuant to 1991 c 245 § 41.

**84.28.200** Termination of classification under chapter 84.28 RCW—Reclassification under chapter 84.33 RCW. [1984 c 204 § 28.] Decodified pursuant to 1991 c 245 § 41.

**84.28.205** "Reclassified reforestation land" defined. [1984 c 204 § 29.] Decodified pursuant to 1991 c 245 § 41.

**84.28.210** Notice of reclassification—Application for declassification—Payment for declassification—Assessment upon declassification. [1984 c 204 § 30.] Decodified pursuant to 1991 c 245 § 41.

**84.28.215** Listing of reclassified reforestation lands—Manner and effect. [1984 c 204 § 31.] Decodified pursuant to 1991 c 245 § 41.

#### Chapter 84.40

##### LISTING OF PROPERTY

**84.40.100** Map of districts to be furnished by county commissioners. [1961 c 15 § 84.40.100. Prior: 1925 ex.s. c 130 § 63; 1897 c 71 § 52; 1893 c 124 § 53; 1891 c 140 § 53; 1890 p 551 § 58; RRS § 11146.] Repealed by 1991 c 245 § 43.

**84.40.250** Improvements on public lands assessed as personalty until final proof and certificate. [1961 c 15 § 84.40.250. Prior: 1925 ex.s. c 130 § 34; 1897 c 71 § 27; 1893 c 124 § 27; 1890 p 540 § 24; RRS § 11134.] Repealed by 1991 c 245 § 43.

**84.40.330** Assessor to furnish department of revenue list of businesses of public character. [1975 1st ex.s. c 278 § 196; 1961 c 15 §

84.40.330. Prior: 1939 c 206 § 5, part; 1935 c 127 § 1, part; 1907 c 220 § 1, part; 1905 c 115 § 2, part; RRS § 11091 (second), part.] Repealed by 1991 c 245 § 43.

#### Chapter 84.40A

##### LISTING OF LEASEHOLD ESTATES

**84.40A.020 Prospective and retroactive application.** [1971 ex.s. c 43 § 2.] Repealed by 1991 c 245 § 43.

**84.40A.030 Corrections in assessments of leasehold estates.** [1971 ex.s. c 43 § 3.] Repealed by 1991 c 245 § 43.

**84.40A.040 Study of assessment and valuation of leasehold estates.** [1971 ex.s. c 43 § 4.] Repealed by 1991 c 245 § 43.

**84.40A.050 Modification of existing leases.** [1971 ex.s. c 43 § 5.] Repealed by 1991 c 245 § 43.

#### Chapter 84.44

##### TAXABLE SITUS

**84.44.040 Personalty of road or bridge companies—Road or bridge as personalty.** [1961 c 15 § 84.44.040. Prior: 1925 ex.s. c 130 § 19; RRS § 11123; prior: 1897 c 71 § 12; 1893 c 124 § 12; 1891 c 140 § 12; 1890 p 534 § 11; Code 1881 § 2843.] Repealed by 1991 c 245 § 43.

**84.44.060 Personalty connected with farm when owner doesn't reside thereon—Certain agricultural property exempt.** [1961 c 15 § 84.44.060. Prior: 1939 c 206 § 14; 1933 c 48 § 1; 1925 ex.s. c 130 § 20; RRS § 11124; prior: 1897 c 71 § 13; 1893 c 124 § 13; 1891 c 140 § 13; 1890 p 534 § 12. Formerly RCW 84.36.200 and 84.44.060.] Repealed by 1991 c 245 § 43.

**84.44.070 Migratory stock.** [1961 c 15 § 84.44.070. Prior: 1939 c 206 § 11; 1925 ex.s. c 130 § 12; RRS § 11116; prior: 1895 c 61 § 1; 1886 p 94 § 1.] Repealed by 1991 c 245 § 43.

#### Chapter 84.52

##### LEVY OF TAXES

**84.52.0691 Six-year regular tax levies for emergency medical care and services—Expiration of section.** [1990 2nd ex.s. c 1 § 521.] Failed to become law by reason of the rejection of 1990 HJR 4231.

**84.52.100 Library district, public hospital district, metropolitan park district, or fire protection district—Increase of cumulative limitation on regular property tax rates authorized—Ballot proposition.** [1988 c 274 § 6; 1987 c 138 § 7.] Repealed by 1990 c 234 § 5.

#### Chapter 84.64

##### CERTIFICATES OF DELINQUENCY

**84.64.010 Determination by county commissioners as to issuance—Form of certificate.** [1961 c 15 § 84.64.010. Prior: 1925 ex.s. c 130 § 113; RRS § 11274; prior: 1917 c 142 § 2; 1907 c 206 § 1; 1903 c 181 § 1; 1897 c 71 § 94.] Repealed by 1991 c 245 § 42.

**84.64.020 Interest rate—Probative force of certificate.** [1961 c 15 § 84.64.020. Prior: 1925 ex.s. c 130 § 114; RRS § 11275; prior: 1917 c 142 § 3; 1897 c 71 § 95.] Repealed by 1991 c 245 § 42.

**84.64.030 Foreclosure—Notice and summons—Cost to be included in redemption—Prohibition on issuance of certificate on certain residential property.** [1984 c 220 § 18; 1984 c 179 § 1; 1981 c 322 § 3; 1972 ex.s. c 84 § 1; 1961 c 15 § 84.64.030. Prior: 1925 ex.s. c 130 § 115; RRS § 11276; prior: 1901 c 178 § 1; 1899 c 141 § 13; 1897 c 71 § 96, 97.] Repealed by 1991 c 245 § 42.

**84.64.140 Erroneous sales.** [1961 c 15 § 84.64.140. Prior: 1925 ex.s. c 130 § 124; RRS § 11285.] Repealed by 1991 c 245 § 42.

**84.64.145 Error by county officer or employee in creating tax lien—Return of property sold or about to be sold to rightful owner—Procedure.** [1972 ex.s. c 84 § 4.] Repealed by 1991 c 245 § 42.

**84.64.150 Private certificate holder to pay subsequent taxes.** [1961 c 15 § 84.64.150. Prior: 1925 ex.s. c 130 § 122; RRS § 11283; prior: 1917 c 142 § 5; 1899 c 141 § 20; 1897 c 71 § 107; 1893 c 124 § 122.] Repealed by 1991 c 245 § 42.

**84.64.160 Certificate of redemption—Claims released by.** [1961 c 15 § 84.64.160. Prior: 1925 ex.s. c 130 § 125; RRS § 11286; prior: 1899 c 141 § 22; 1897 c 71 § 111; 1893 c 124 § 126.] Repealed by 1991 c 245 § 42.

**84.64.170 Redemptioner to pay cost of publication.** [1961 c 15 § 84.64.170. Prior: 1925 ex.s. c 130 § 126; RRS § 11287; prior: 1897 c 71 § 112; 1893 c 124 § 129.] Repealed by 1991 c 245 § 42.

**84.64.210 Fees of officers.** [1961 c 15 § 84.64.210. Prior: 1925 ex.s. c 130 § 130; RRS § 11291; prior: 1899 c 141 § 26; 1897 c 71 § 119. FORMER PART OF SECTION: 1947 c 60 § 1 now codified as RCW 84.64.215.] Repealed by 1991 c 245 § 42.

**84.64.240 Payment of taxes by mistake.** [1961 c 15 § 84.64.240. Prior: 1925 ex.s. c 130 § 135; RRS § 11296; prior: 1897 c 71 § 120.] Repealed by 1991 c 245 § 42.

## Title 85

### DIKING AND DRAINAGE

#### Chapter 85.05

##### DIKING DISTRICTS

**85.05.015 Voting rights.** [1991 c 349 § 3; 1985 c 396 § 21.] Recodified as RCW 85.08.025 pursuant to 1991 c 349 § 19.

#### Chapter 85.24

##### DIKING AND DRAINAGE DISTRICTS IN TWO OR MORE COUNTIES

**85.24.210 Maintenance levy.** [1909 c 225 § 31; RRS § 4391.] Repealed by 1991 c 349 § 18.

## Title 86

### FLOOD CONTROL

#### Chapter 86.15

##### FLOOD CONTROL ZONE DISTRICTS

**86.15.040 Limitation on the formation of zones.** [1961 c 153 § 4.] Repealed by 1991 c 322 § 13.

#### Chapter 86.16

##### FLOOD PLAIN MANAGEMENT

**86.16.027 Authority of supervisor—Rules.** [1987 c 109 § 51; 1935 c 159 § 9; RRS § 9663A-9. Formerly RCW 86.16.020, part.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.030 Authority of supervisor—Employment and purchasing.** [1987 c 109 § 52; 1935 c 159 § 5; RRS § 9663A-5. FORMER PART OF SECTION: 1935 c 159 § 8 now codified as RCW 86.16.035.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.040 Authority of supervisor—Survey of flood control needs.** [1987 c 109 § 54; 1935 c 159 § 11; RRS § 9663A-11.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.060 Flood control zones—Establishment by supervisor.** [1987 c 109 § 55; 1935 c 159 § 13; RRS § 9663A-13. FORMER PART OF SECTION: 1935 c 159 §§ 14, 15 now codified as RCW 86.16.065 and 86.16.067.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.065 Flood control zones—Alteration and revision.** [1987 c 109 § 56; 1935 c 159 § 14; RRS § 9663A-14. Formerly RCW 86.16.060, part.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.067 Flood control zones—Notice—Publication—Contents—Objections.** [1987 c 109 § 57; 1985 c 469 § 86; 1935 c 159 § 15; RRS § 9663A-15. Formerly RCW 86.16.060, part.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.070 Flood control zones—Presumption as to notice—Order establishing or changing zone.** [1987 c 109 § 58; 1935 c 159 § 16; RRS § 9663A-16.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.080 Permit for improvement—How obtained—Emergencies.** [1987 c 109 § 59; 1935 c 159 § 10; RRS § 9663A-10.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.090 Improvements without permit as nuisance—Abatement.** [1987 c 109 § 60; 1939 c 85 § 2; 1935 c 159 § 7; RRS § 9663A-7.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

**86.16.170 "Supervisor of flood control" defined.** [1987 c 109 § 62; 1973 c 75 § 3.] Repealed by 1987 c 523 § 12; and repealed by 1991 c 322 § 13.

## Title 88

### NAVIGATION AND HARBOR IMPROVEMENTS

#### Chapter 88.40

#### TRANSPORT OF PETROLEUM PRODUCTS—FINANCIAL RESPONSIBILITY

**88.40.010 Definitions.** [1990 c 116 § 30; 1989 1st ex.s. c 2 § 2.] Repealed by 1991 c 200 § 1116.

**88.40.050 Noncompliance—Penalty.** [1989 1st ex.s. c 2 § 6.] Repealed by 1991 c 200 § 1116.

#### Chapter 88.44

#### OIL SPILL FIRST RESPONSE

**88.44.050 Nomination and election procedure.** [1990 c 117 § 6.] Repealed by 1991 c 200 § 1116.

**88.44.060 List of companies.** [1990 c 117 § 7.] Repealed by 1991 c 200 § 1116.

**88.44.070 Reimbursement of election costs.** [1990 c 117 § 8.] Repealed by 1991 c 200 § 1116.

## Title 90

### WATER RIGHTS—ENVIRONMENT

#### Chapter 90.48

#### WATER POLLUTION CONTROL

**90.48.315 Discharge of oil or hazardous substances into waters of the state—Definitions.** [1991 c 200 § 102; 1990 c 116 § 2; 1989 c 388 § 6; 1985 c 316 § 5; 1971 ex.s. c 180 § 1; 1970 ex.s. c 88 § 1; 1969 ex.s. c 133 § 10.] Recodified as RCW 90.56.010 pursuant to 1991 c 200 § 1115.

**90.48.320 Discharge of oil into waters of the state—Unlawful for oil to enter waters—Exceptions.** [1990 c 116 § 17; 1987 c 109 § 146; 1970 ex.s. c 88 § 2; 1969 ex.s. c 133 § 1.] Recodified as RCW 90.56.320 pursuant to 1991 c 200 § 1115.

**90.48.325 Discharge of oil into waters of the state—Obligation to collect and remove or contain, treat and disperse after entry—Director to prohibit harmful dispersants.** [1991 c 200 § 303; 1970 ex.s. c 88 § 3; 1969 ex.s. c 133 § 2.] Recodified as RCW 90.56.340 pursuant to 1991 c 200 § 1115.

**90.48.330 Discharge of oil and hazardous substances into waters of the state—Department may investigate, remove, contain, treat or disperse oil and hazardous substances discharged—Limitation—Record of expenses incurred.** [1990 c 116 § 21; 1987 c 109 § 147; 1970 ex.s. c 88 § 4; 1969 ex.s. c 133 § 3.] Recodified as RCW 90.56.350 pursuant to 1991 c 200 § 1115.

**90.48.335 Discharge of oil and hazardous substances into waters of the state—Liability for expenses incurred by department.** [1990 c 116 §

22; 1970 ex.s. c 88 § 5; 1969 ex.s. c 133 § 4.] Recodified as RCW 90.56.360 pursuant to 1991 c 200 § 1115.

**90.48.336 Discharge of oil into waters of the state—Strict liability of owner or controller of oil for damages to persons or property—Exceptions.** [1990 c 116 § 18; 1970 ex.s. c 88 § 6.] Recodified as RCW 90.56.370 pursuant to 1991 c 200 § 1115.

**90.48.338 Discharge of oil into waters of the state—Other persons causing entry of oil directly liable to state for cleanup expenses—Cause of action by persons liable under RCW 90.48.325 and 90.48.350 against others.** [1990 c 116 § 19; 1970 ex.s. c 88 § 7.] Recodified as RCW 90.56.380 pursuant to 1991 c 200 § 1115.

**90.48.340 Discharge of oil into waters of the state—Department investigation of circumstances of entry—Order for reimbursement of expenses incurred by department—Modification—Action to recover necessary expenses.** [1991 c 200 § 305; 1987 c 109 § 148; 1985 c 316 § 4; 1970 ex.s. c 88 § 10; 1969 ex.s. c 133 § 5.] Recodified as RCW 90.56.400 pursuant to 1991 c 200 § 1115.

**90.48.343 Discharge of oil into waters of the state—Permit required prior to discharge—Authority of director.** [1987 c 109 § 149; 1970 ex.s. c 88 § 8.] Recodified as RCW 90.56.420 pursuant to 1991 c 200 § 1115.

**90.48.345 Discharge of oil into waters of the state—Rules and regulations.** [1987 c 109 § 150; 1969 ex.s. c 133 § 6.] Repealed by 1991 c 200 § 1116.

**90.48.350 Discharge of oil into waters of the state—Penalties.** [1990 c 116 § 23; 1989 c 388 § 9; 1987 c 109 § 20; 1985 c 316 § 7; 1970 ex.s. c 88 § 9; 1969 ex.s. c 133 § 7.] Recodified as RCW 90.56.330 pursuant to 1991 c 200 § 1115.

**90.48.355 Discharge of oil and hazardous substances into waters of the state—Right of entry, access to records, pertinent to investigations.** [1990 c 116 § 23; 1987 c 109 § 151; 1969 ex.s. c 133 § 8.] Recodified as RCW 90.56.410 pursuant to 1991 c 200 § 1115.

**90.48.360 Discharge of oil or hazardous substances into waters of the state—Duty to notify coast guard and division of emergency management of discharge—Exception.** [1990 c 116 § 24; 1987 c 109 § 152; 1969 ex.s. c 133 § 9.] Recodified as RCW 90.56.280 pursuant to 1991 c 200 § 1115.

**90.48.365 Discharge of oil into waters of the state—Powers supplemental—Effect.** [1991 c 200 § 105; 1987 c 109 § 153; 1969 ex.s. c 133 § 11.] Recodified as RCW 90.56.040 pursuant to 1991 c 200 § 1115.

**90.48.370 Departmental powers and duties as exercise of state police power—Extension to all waters within state.** [1991 c 200 § 104; 1971 ex.s. c 180 § 2.] Recodified as RCW 90.56.030 pursuant to 1991 c 200 § 1115.

**90.48.371 Discharge of oil or hazardous substances into waters of the state—Containment and cleanup—Contingency plan.** [1991 c 200 § 202; 1990 c 116 § 3.] Recodified as RCW 90.56.210 pursuant to 1991 c 200 § 1115.

**90.48.372 Discharge of oil or hazardous substances into waters of the state—Standards for cleanup and containment services contractors.** [1990 c 116 § 4.] Recodified as RCW 90.56.240 pursuant to 1991 c 200 § 1115.

**90.48.373 Discharge of oil or hazardous substances into waters of the state—Index of contingency plans—Equipment inventory.** [1991 c 200 § 205; 1990 c 116 § 5.] Recodified as RCW 90.56.250 pursuant to 1991 c 200 § 1115.

**90.48.374 Discharge of oil or hazardous substances into waters of the state—Adequacy of contingency plans—Practice drills—Report.** [1990 c 116 § 6.] Recodified as RCW 90.56.260 pursuant to 1991 c 200 § 1115.

**90.48.375 Discharge of oil or hazardous substances into waters of the state—Enforcement of contingency plans.** [1991 c 200 § 206; 1990 c 116 § 7.] Recodified as RCW 90.56.270 pursuant to 1991 c 200 § 1115.

**90.48.376 Discharge of oil or hazardous substances into waters of the state—Unlawful operation of facility or vessel—Penalties.** [1991 c

200 § 301; 1990 c 116 § 8.] Recodified as RCW 90.56.300 pursuant to 1991 c 200 § 1115.

**90.48.377 Discharge of oil or hazardous substances into waters of the state--Unlawful entry onto waters of the state.** [1991 c 200 § 302; 1990 c 116 § 9.] Recodified as RCW 90.56.310 pursuant to 1991 c 200 § 1115.

**90.48.378 Discharge of oil or hazardous substances into waters of the state--State-wide master oil and hazardous substance spill contingency plan.** [1991 c 200 § 107; 1990 c 116 § 10.] Recodified as RCW 90.56.060 pursuant to 1991 c 200 § 1115.

**90.48.380 Rules and regulations--Scope.** [1991 c 200 § 106; 1971 ex.s. c 180 § 3.] Recodified as RCW 90.56.050 pursuant to 1991 c 200 § 1115.

**90.48.381 Oil spill response--Policies and plans--Use of chemical agents--Disposal of oil and hazardous substances.** [1990 c 116 § 15.] Repealed by 1991 c 200 § 1116.

**90.48.383 Oil spill cleanup--Persons not liable.** [1990 c 116 § 25.] Repealed by 1991 c 200 § 1116.

**90.48.385 Tow boat standards--Study.** [1991 c 200 § 437; 1990 c 116 § 16.] Recodified as RCW 88.46.150 pursuant to 1991 c 200 § 1115.

**90.48.387 Washington wildlife rescue coalition.** [1990 c 116 § 12.] Recodified as RCW 90.56.100 pursuant to 1991 c 200 § 1115.

**90.48.388 Rehabilitation of wildlife affected by spills of oil and other hazardous materials--Rules.** [1990 c 116 § 13.] Recodified as RCW 90.56.110 pursuant to 1991 c 200 § 1115.

**90.48.410 Procedure when violation of rule or regulation.** [1971 ex.s. c 180 § 6.] Repealed by 1991 c 200 § 1116.

**90.48.510 Refueling, bunkering, or lightering operations--Availability of containment and recovery equipment.** [1991 c 200 § 438; 1987 c 479 § 2.] Recodified as RCW 88.46.160 pursuant to 1991 c 200 § 1115.

**90.48.907 Construction--1971 ex.s. c 180--Appeal not to stay order, rule or regulation.** [1991 c 200 § 1107; 1971 ex.s. c 180 § 10.] Recodified as RCW 90.56.900 pursuant to 1991 c 200 § 1115.

**90.48.910 Remedies additional and cumulative--Other rights and remedies not abridged or estopped.** [1967 c 13 § 25.] Repealed by 1991 c 200 § 1116.

#### Chapter 90.70

##### PUGET SOUND WATER QUALITY AUTHORITY

**90.70.900 Termination of authority--Expiration of chapter.** [1985 c 451 § 11; 1983 c 243 § 6.] Repealed by 1990 c 115 § 14.

**Title 1  
GENERAL PROVISIONS**

**Chapters**

- 1.16** General definitions.
- 1.20** General provisions.

**Chapter 1.16  
GENERAL DEFINITIONS**

**Sections**

- 1.16.050 "Legal holidays".

**1.16.050 "Legal holidays".** The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday of February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, shall be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

If any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

The legislature declares that the twelfth day of October shall be recognized as Columbus Day but shall not be considered a legal holiday for any purposes.

The legislature declares that the ninth day of April shall be recognized as former prisoner of war recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the twenty-sixth day of January shall be recognized as Washington army and air national guard day but shall not be considered a legal holiday for any purposes.

The legislature declares that the seventh day of August shall be recognized as purple heart recipient recognition day but shall not be considered a legal holiday for any purposes. [1991 1st sp.s. c 20 § 1; 1991 c 57 § 2; 1989 c 128 § 1; 1985 c 189 § 1; 1979 c 77 § 1; 1977 ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 24 § 1; 1975 1st ex.s. c 194 § 1; 1973 2nd ex.s. c 1 § 1; 1969 c 11 § 1; 1955 c 20 § 1; 1927 c 51 § 1; RRS § 61. Prior: 1895 c 3 § 1; 1891 c 41 § 1; 1888 p 107 § 1.]

**Reviser's note:** This section was amended by 1991 c 57 § 2 and by 1991 1st sp.s. c 20 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding—Declaration—1991 c 57:** "The legislature finds that the Washington army and air national guard comprise almost nine thousand dedicated men and women who serve the state and nation on a voluntary basis. The legislature also finds that the state of Washington benefits from that dedication by immediate access to well-prepared resources in time of natural disasters and public emergency. The national guard has consistently and frequently responded to state and local emergencies with people and equipment to provide enforcement assistance, medical services, and overall support to emergency management services.

The legislature further declares that an annual day of commemoration should be observed in honor of the achievements, sacrifices, and dedication of the men and women of the Washington army and air national guard." [1991 c 57 § 1.]

*Court business on legal holidays: RCW 2.28.100, 2.28.110.*

*School holidays: RCW 28A.150.050.*

**Chapter 1.20  
GENERAL PROVISIONS**

**Sections**

- 1.20.110 State tartan.

**1.20.110 State tartan.** The Washington state tartan is hereby designated. The tartan shall have a pattern of colors, called a sett, that is made up of a green background with stripes of blue, white, yellow, red, and black. The secretary of state shall register the tartan with the Scottish Tartan Society, Comrie, Perthshire, Scotland. [1991 c 62 § 1.]

## Title 2 COURTS OF RECORD

### Chapters

- 2.08 Superior courts.
- 2.10 Judicial retirement system.
- 2.12 Retirement of judges—Retirement system.
- 2.14 Retirement of judges—Supplemental retirement.
- 2.24 Court commissioners and referees.
- 2.32 Court clerks, reporters, and bailiffs.
- 2.36 Juries.
- 2.42 Interpreters in legal proceedings.
- 2.43 Interpreters for non-English-speaking persons.
- 2.56 Administrator for the courts.

### Chapter 2.08 SUPERIOR COURTS

#### Sections

- 2.08.062 Judges—Chelan, Douglas, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.
- 2.08.065 Judges—Grant, Ferry, Okanogan, Mason, Thurston, Pacific, Wahkiakum, Pend Oreille, Stevens, San Juan and Island counties.

**2.08.062 Judges—Chelan, Douglas, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.** There shall be in the counties of Chelan and Douglas jointly, three judges of the superior court; in the county of Clark six judges of the superior court; in the county of Grays Harbor two judges of the superior court; in the county of Kitsap seven judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis two judges of the superior court. [1990 c 186 § 1; 1987 c 323 § 2; 1985 c 357 § 2; 1979 ex.s. c 202 § 2; 1977 ex.s. c 311 § 2; 1975-'76 2nd ex.s. c 79 § 1; 1971 ex.s. c 83 § 4; 1967 ex.s. c 84 § 2; 1963 c 48 § 2; 1951 c 125 § 4. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1911 c 131 § 1; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

**Effective dates—Additional judicial positions in Kitsap and Thurston counties subject to approval and agreement—1990 c 186:** "(1)(a) One additional judicial position created by section 1 of this act and the additional judicial position created by section 2 of this act shall be effective July 1, 1990.

(b) The second additional judicial position created by section 1 of this act shall be effective not later than, and at the discretion of the legislative authority may be phased in at any time before, January 1, 1994.

(2) The additional judicial positions created by sections 1 and 2 of this act in Kitsap and Thurston counties shall be effective only if the county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1990 c 186 § 4.] Sections 1 and 2 of this act are the 1990 c 186 amendments to RCW 2.08.062 and 2.08.065.

**Effective dates—Additional judicial positions in King, Chelan, and Douglas counties subject to approval and agreement—1987 c 323:** See note following RCW 2.08.061.

**Effective dates—Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement—1985 c 357:** See note following RCW 2.08.061.

**Adjustment in judicial services:** See note following RCW 2.08.065.

**Effective date—1977 ex.s. c 311:** See note following RCW 2.08.061.

**2.08.065 Judges—Grant, Ferry, Okanogan, Mason, Thurston, Pacific, Wahkiakum, Pend Oreille, Stevens, San Juan and Island counties.** There shall be in the county of Grant, two judges of the superior court; in the county of Okanogan, one judge of the superior court; in the county of Mason, one judge of the superior court; in the county of Thurston, six judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, two judges of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court. [1990 c 186 § 2; 1986 c 76 § 1; 1981 c 65 § 2; 1979 ex.s. c 202 § 4; 1977 ex.s. c 311 § 4; 1973 1st ex.s. c 27 § 3; 1971 ex.s. c 83 § 2; 1969 ex.s. c 213 § 3; 1955 c 159 § 1; 1951 c 125 § 7. Prior: 1927 c 135 § 1, part; 1917 c 97 §§ 4, 5, part; 1913 c 17 § 1; 1911 c 131 § 2; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1903 c 50 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; RRS § 11045-1, part.]

**Effective dates—Additional judicial positions in Kitsap and Thurston counties subject to approval and agreement—1990 c 186:** See note following RCW 2.08.062.

**Effective date—Appointment of additional judicial position—1986 c 76:** "(1) Pursuant to RCW 2.08.069, the governor shall appoint a person to fill the judicial position created by section 1 of this act in Mason county. The five judges of the superior court serving in the Thurston/Mason judicial district on January 1, 1987, shall be assigned to the new Thurston county judicial district.

(2) This act shall take effect January 1, 1987. The additional judicial position created by section 1 of this act in Mason county shall be effective only if, before January 1, 1987, Thurston and Mason counties, through their duly constituted legislative authorities, document their approval of the additional position and their agreement that they will pay out of county funds, without reimbursement from the state, the expenses resulting from section 1 of this act." [1986 c 76 § 2.] Section 1 of this act is the 1986 c 76 amendment to RCW 2.08.065.

**Additional judicial positions subject to approval and agreement:** See note following RCW 2.08.064.

**Adjustment in judicial services provided for Douglas, Grant and Chelan counties:** "The superior court judge serving in position two, as designated by the county auditors of Grant and Douglas counties for the 1976 general election, in the counties of Grant and Douglas prior to the effective date of this 1979 act, shall thereafter serve jointly in the counties of Douglas and Chelan, along with the judge previously serving only in Chelan county. The additional superior court judge position created by this 1979 act shall be for Grant county alone, which shall retain the judge in position one previously serving jointly in the counties of Grant and Douglas." [1979 ex.s. c 202 § 5.]

**Effective date—1977 ex.s. c 311:** See note following RCW 2.08.061.

### Chapter 2.10 JUDICIAL RETIREMENT SYSTEM

#### Sections

- 2.10.080 Funds and securities.
- 2.10.095 Repealed.
- 2.10.144 Payment of accumulated contributions or retirement allowance upon death—Election.

- 2.10.146 Election of option for payment of retirement or disability allowance.
- 2.10.155 Suspension of retirement allowance upon employment—Exceptions—Reinstatement—Pro tempore service.
- 2.10.165 Refund of certain contributions.
- 2.10.180 Benefits exempt from taxation and judicial process—Exceptions—Deductions for group insurance premiums.

**2.10.080 Funds and securities.** (1) The state treasurer shall be the custodian of all funds and securities of the retirement system. Disbursements from this fund shall be made by the state treasurer upon receipt of duly authorized vouchers.

(2) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer. All investment income earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him or her and placed to the credit of the retirement fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160 and to the state treasurer's service fund pursuant to RCW 43.08.190.

(3) The state investment board established by RCW 43.33A.020 has full power to invest or reinvest the funds of this system in those classes of investments authorized by RCW 43.84.150.

(4) For the purpose of providing amounts to be used to defray the cost of administration, the judicial retirement board shall ascertain at the beginning of each biennium and request from the legislature an appropriation sufficient to cover estimated expenses for the said biennium. [1991 1st sp.s. c 13 § 114; 1981 c 3 § 22; 1973 1st ex.s. c 103 § 1; 1971 ex.s. c 267 § 8.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Intent of amendment—1981 c 3:** "The amendment of RCW 2.10.080, 2.12.070, 41.26.060, 41.26.070, and 41.40.080 by this 1980 act is intended solely to provide for the investment of state funds and is not intended to alter the administration of the affected retirement systems by the department of retirement systems under chapter 41.50 RCW." [1981 c 3 § 44.]

**Effective dates—Severability—1981 c 3:** See notes following RCW 43.33A.010.

**Severability—1973 1st ex.s. c 103:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 103 § 20.]

**2.10.095 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.10.144 Payment of accumulated contributions or retirement allowance upon death—Election.** (1) If a judge dies before the date of retirement, the amount of the accumulated contributions standing to the judge's credit at the time of death shall be paid to such person or persons, having an insurable interest in the judge's

life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems. If there is no such designated person or persons still living at the time of the judge's death, or if the judge fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, the judge's credited accumulated contributions shall be paid to the surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the judge's legal representatives.

(2) Upon the death in service of any judge who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 2.10.146 shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary, except that if the judge is not then qualified for a service retirement allowance, the option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased judge would have first qualified for a service retirement allowance. However, subsection (1) of this section, unless elected, shall not apply to any judge who has applied for a service retirement and thereafter dies between the date of separation from service and the judge's effective retirement date, where the judge has selected a survivorship option under RCW 2.10.146(1)(b). In those cases, the beneficiary named in the judge's final application for service retirement may elect to receive either a cash refund or monthly payments according to the option selected by the judge. [1990 c 249 § 13; 1988 c 109 § 8.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**2.10.146 Election of option for payment of retirement or disability allowance.** (1) Upon making application for a service retirement allowance under RCW 2.10.100 or a disability allowance under RCW 2.10.120, a judge who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(a) Standard allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in RCW 2.10.110. The retirement allowance shall be payable throughout the judge's life. However, if the judge dies before the total of the retirement allowance paid to the judge equals the amount of the judge's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement

systems or, if there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(b) The department shall adopt rules that allow a judge to select a retirement option that pays the judge a reduced retirement allowance and upon death, such portion of the judge's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the judge's life. Such person shall be nominated by the judge by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A judge, if married, must provide the written consent of his or her spouse to the option selected under this section. If a judge is married and both the judge and the judge's spouse do not give written consent to an option under this section, the department will pay the judge a joint and fifty percent survivor benefit and record the judge's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 2; 1988 c 109 § 9.]

**Findings—1990 c 249:** "The legislature finds that:

(1) It would be advantageous for some retirees to have survivorship options available other than the options currently listed in statute. Allowing the department of retirement systems to adopt several different survivor options will assist retirees in their financial planning; and

(2) Disabled members of the retirement systems listed in RCW 41.50.030, except for members of the law enforcement officers' and fire fighters' retirement system plan I, must forfeit any right to leave a benefit to their survivors if they wish to go on disability retirement. This results in some disabled workers holding onto their jobs in order to provide for their dependents. The provisions of this act allow members to go on disability retirement while still providing for their survivors." [1990 c 249 § 1.] For codification of 1990 c 249, see Codification Tables, Supplement Volume 9A.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**2.10.155 Suspension of retirement allowance upon employment—Exceptions—Reinstatement—Pro tempore service.** (1) No judge shall be eligible to receive the judge's monthly service or disability retirement allowance if the retired judge is employed:

(a) For more than eight hundred ten hours in a calendar year as a pro tempore judge; or

(b) In an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

(2) Subsection (1) of this section notwithstanding, a previously elected judge of the superior court who retired before June 7, 1990, leaving a pending case in which the judge had made discretionary rulings may hear the pending case as a judge pro tempore without having his or her retirement allowance suspended.

(3) If a retired judge's benefits have been suspended under this section, his or her benefits shall be reinstated

when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retired judge's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(4) The department shall adopt rules implementing this section. [1990 c 274 § 14; 1988 c 109 § 10.]

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15:** See note following RCW 41.40.690.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**2.10.165 Refund of certain contributions.** If a judge who was a member of this system left the system before July 1, 1988, and neither the judge nor the judge's surviving spouse: (1) Was eligible at that time to receive a benefit under this chapter; or (2) has received an amount under a sundry claims appropriation from the state legislature intended as a refund of the judge's contributions paid under RCW 2.10.090(1); then the judge or the judge's surviving spouse may apply to the department for and receive a refund of such contributions. [1991 c 159 § 1.]

**2.10.180 Benefits exempt from taxation and judicial process—Exceptions—Deductions for group insurance premiums.** (1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 18; 1989 c 360 § 22; 1987 c

326 § 17; 1982 1st ex.s. c 52 § 1; 1979 ex.s. c 205 § 1; 1971 ex.s. c 267 § 18.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Effective date**—1987 c 326: See RCW 41.50.901.

**Effective dates**—1982 1st ex.s. c 52: "(1) Sections 9 and 34 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) The remainder of this act shall take effect July 1, 1982." [1982 1st ex.s. c 52 § 37.] For codification of 1982 1st ex.s. c 52, see Codification Tables, Volume 0.

**Chapter 2.12**

**RETIREMENT OF JUDGES—RETIREMENT SYSTEM**

**Sections**

2.12.048	Refund of certain contributions.
2.12.070	Repealed.
2.12.080	Repealed.
2.12.090	Benefits exempt from taxation and judicial process— Exceptions—Deductions for group insurance premiums.

**2.12.048 Refund of certain contributions.** If a judge who was a member of this system left the system before July 1, 1988, and neither the judge nor the judge's surviving spouse: (1) Was eligible at that time to receive a benefit under this chapter; or (2) has received an amount under a sundry claims appropriation from the state legislature intended as a refund of the judge's contributions paid under RCW 2.12.060; then the judge or the judge's surviving spouse may apply to the department for and receive a refund of such contributions. [1991 c 159 § 2.]

**2.12.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.12.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.12.090 Benefits exempt from taxation and judicial process—Exceptions—Deductions for group insurance premiums.** (1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter

74.20A RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section. [1991 c 365 § 19; 1989 c 360 § 23; 1987 c 326 § 18; 1982 1st ex.s. c 52 § 32.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Effective date**—1987 c 326: See RCW 41.50.901.

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**Chapter 2.14**

**RETIREMENT OF JUDGES—SUPPLEMENTAL RETIREMENT**

**Sections**

2.14.070	Judicial retirement administrative account— Creation—Use—Excess balance—Deficiencies.
2.14.080	Duties of administrator—Investments and earnings.

**2.14.070 Judicial retirement administrative account—Creation—Use—Excess balance—Deficiencies.** The judicial retirement administrative account is created in the state treasury. All expenses of the administrator for the courts under this chapter, including staffing and administrative expenses, shall be paid out of the administrative account. Any excess balance of this account over administrative expenses disbursed from this account shall be transferred to the principal account. Any deficiency in the administrative account caused by an excess of administrative expenses disbursed from this account over the excess balance of this account shall be transferred to this account from the principal account. [1991 1st sp.s. c 13 § 70; 1988 c 109 § 18.]

**Effective dates**—**Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Effective date**—1988 c 109: See note following RCW 2.10.030.

**2.14.080 Duties of administrator—Investments and earnings.** (1) The administrator for the courts shall:

(a) Deposit or invest the contributions under RCW 2.14.090 in a credit union, savings and loan association, bank, or mutual savings bank;

(b) Purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or investment company licensed to contract business in this state; or

(c) Invest in any of the class of investments described in RCW 43.84.150.

(2) The state investment board or the committee for deferred compensation, at the request of the administrator for the courts, may invest moneys in the principal account. Moneys invested by the investment board shall be invested in accordance with RCW 43.84.150. Moneys invested by the committee for deferred compensation shall be invested in accordance with RCW 41.04.250. Except as provided in RCW 43.33A.160 or as necessary to pay a pro rata share of expenses incurred by the committee for deferred compensation, one hundred percent of all earnings from these investments, exclusive of investment income pursuant to RCW 43.84.080, shall accrue directly to the principal account. [1991 1st sp.s. c 13 § 103; 1989 c 139 § 3; 1988 c 109 § 19.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

## Chapter 2.24

### COURT COMMISSIONERS AND REFEREES

#### Sections

- 2.24.010 Appointment of court commissioners—Qualifications—Term of office. (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
- 2.24.010 Appointment of court commissioners—Qualifications—Term of office. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
- 2.24.040 Powers of commissioners—Fees.

**2.24.010 Appointment of court commissioners—Qualifications—Term of office.** (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein, one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment. [1990 c 191 § 1; 1979 ex.s. c 54 § 1; 1967 ex.s. c 87 § 1; 1961 c 42 § 1; 1909 c 124 § 1; RRS § 83. Prior: 1895 c 83 § 1.]

**2.24.010 Appointment of court commissioners—Qualifications—Term of office.** (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein, one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment. The number

of court commissioners in each county shall be determined by the legislative authority of that county. [1991 c 300 § 1; 1990 c 191 § 1; 1979 ex.s. c 54 § 1; 1967 ex.s. c 87 § 1; 1961 c 42 § 1; 1909 c 124 § 1; RRS § 83. Prior: 1895 c 83 § 1.]

**Contingent effective date—1991 c 300:** "This act shall take effect if the proposed amendment to Article IV, section 23 of the state Constitution affecting the number of county court commissioners is validly submitted to and is approved and ratified by the voters at the next general election held. If the proposed amendment is not so approved and ratified, this act is void in its entirety." [1991 c 300 § 8.]

**2.24.040 Powers of commissioners—Fees.** Such court commissioner shall have power, authority, and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

(1) To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

(2) To grant and enter defaults and enter judgment thereon.

(3) To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

(4) To act as referee in all matters and actions referred to him or her by the superior court as such, with all the powers now conferred upon referees by law.

(5) To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

(6) To hear and determine all petitions for the adoption of children, [and] for the dissolution of incorporations.

(7) To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: PROVIDED, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

(8) To hear and determine all complaints for the commitments of minors with all powers conferred upon the superior court in such matters.

(9) To hear and determine ex parte and uncontested civil matters of any nature.

(10) To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of the court commissioner's lawful orders made in any matter before the court commissioner as fully as the judge of the superior court.

(11) To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

(12) To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he or she may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

(13) To charge and collect, for his or her own use, the same fees for the official performance of official acts mentioned in subsections (4) and (11) of this section as

are provided by law for referees and notaries public. [1991 c 33 § 6; 1979 ex.s. c 54 § 2; 1963 c 188 § 1; 1909 c 124 § 2; RRS § 85. Prior: 1895 c 83 § 2.]

**Effective date**—1991 c 33: See note following RCW 3.66.020.  
*Powers of commissioner under juvenile court act: RCW 13.04.030.*

**Chapter 2.32**

**COURT CLERKS, REPORTERS, AND BAILIFFS**

Sections

- 2.32.180 Superior court reporters—Qualifications—Appointment—Terms—Oath and bonds.
- 2.32.280 Reporter as amanuensis in counties with populations of one hundred twenty-five thousand or more.

**2.32.180 Superior court reporters—Qualifications—Appointment—Terms—Oath and bonds.** It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be attached to the judge's court who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, the additional superior court judges authorized by sections 2 and 3, chapter 328, Laws of 1989, or the additional superior court judges authorized by sections 1 and 2, chapter 186, Laws of 1990. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.

The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he or she is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each county with a population of one million or more shall be made by the majority vote of the judges in said county acting en banc; the appointments in each county with a population of from one hundred twenty-five thousand to less than one million may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him or her, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his or her duties shall take an oath to perform faithfully the duties of his or her office, and file a bond in the sum of two thousand dollars for the faithful discharge of his or her duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington. [1991 c 363 § 2; 1990 c 186 § 3; 1989 c 328 § 4; 1988 c 66 § 3; 1987 c 323 § 4; 1957 c 244 § 1; 1945 c 154 § 1; 1943 c 69 § 1; 1921 c 42 § 1; 1913 c 126 § 1; Rem. Supp. 1945 § 42-1. Formerly RCW 2.32.180, 2.32.190.]

**Purpose**—1991 c 363: "The purposes of this act are to eliminate the use of formal county classes and substitute the use of the most current county population figures to distinguish counties. In addition, certain old statutes that reference county class, but no longer are followed, are repealed or amended to conform with current practices." [1991 c 363 § 1.]

**Captions not law**—1991 c 363: "Section headings as used in this act do not constitute any part of the law." [1991 c 363 § 168.]

**2.32.280 Reporter as amanuensis in counties with populations of one hundred twenty-five thousand or more.** In all counties or judicial districts, except in any county with a population of one hundred twenty-five thousand or more, such official reporter shall act as a amanuensis to the court for which he or she is appointed. [1991 c 363 § 3; 1957 c 244 § 5; 1943 c 69 § 5; 1913 c 126 § 9; Rem. Supp. 1943 § 42-9.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Chapter 2.36**  
**JURIES**

Sections

- 2.36.095 Summons to persons selected.

**2.36.095 Summons to persons selected.** Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service. The county clerk shall issue summons and thereby notify persons selected for jury duty. In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the county clerk may summon

jurors for any and all courts in the county or judicial district. [1990 c 140 § 1; 1988 c 188 § 9.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

### Chapter 2.42

#### INTERPRETERS IN LEGAL PROCEEDINGS

##### Sections

2.42.020	Repealed.
2.42.030	Repealed.
2.42.040	Repealed.
2.42.110	Definitions.
2.42.130	Source of interpreters, qualifications.
2.42.160	Privileged communications.
2.42.170	Fee.
2.42.200	Recodified as RCW 2.43.010.
2.42.210	Recodified as RCW 2.43.020.
2.42.220	Recodified as RCW 2.43.030.
2.42.230	Recodified as RCW 2.43.040.
2.42.240	Recodified as RCW 2.43.050.
2.42.250	Recodified as RCW 2.43.060.
2.42.260	Recodified as RCW 2.43.070.
2.42.270	Recodified as RCW 2.43.080.

**2.42.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.110 Definitions.** As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.

(2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

(3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board,

commission, agency, licensing authority, or legislative body of the state or of any political subdivision. [1991 c 171 § 1; 1985 c 389 § 11.]

**2.42.130 Source of interpreters, qualifications.** (1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed. [1991 c 171 § 2; 1985 c 389 § 13.]

**2.42.160 Privileged communications.** (1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending. [1991 c 171 § 3; 1985 c 389 § 16.]

**2.42.170 Fee.** A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services. [1991 c 171 § 4; 1985 c 389 § 17.]

**2.42.200 Recodified as RCW 2.43.010.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.210 Recodified as RCW 2.43.020.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.220 Recodified as RCW 2.43.030.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.230 Recodified as RCW 2.43.040.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.240 Recodified as RCW 2.43.050.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.250 Recodified as RCW 2.43.060.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.260 Recodified as RCW 2.43.070.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**2.42.270 Recodified as RCW 2.43.080.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 2.43**

**INTERPRETERS FOR NON-ENGLISH-SPEAKING PERSONS**

Sections	
2.43.010	Legislative intent.
2.43.020	Definitions.
2.43.030	Appointment of interpreter.
2.43.040	Fees and expenses—Cost of providing interpreter.
2.43.050	Oath.
2.43.060	Waiver of right to interpreter.
2.43.070	Testing, certification of interpreters.
2.43.080	Code of ethics.

**2.43.010 Legislative intent.** It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in \*this act abridges the parties' rights or obligations under other statutes or court rules or other law. [1989 c 358 § 1. Formerly RCW 2.42.200.]

**\*Reviser's note:** "This act" [1989 c 358] consisted of the enactment of RCW 2.42.200 through 2.42.270, the 1989 c 358 amendments to RCW 2.42.010, 2.42.020, and 2.42.050, and a severability clause.

**Severability—1989 c 358:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 358 § 10.]

**2.43.020 Definitions.** As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily

speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before [an] administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the office of the administrator for the courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof. [1989 c 358 § 2. Formerly RCW 2.42.210.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.030 Appointment of interpreter.** (1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the office of the administrator for the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of \*this act, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the office of the administrator for the courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of

the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules. [1990 c 183 § 1; 1989 c 358 § 3. Formerly RCW 2.42.220.]

**\*Reviser's note:** "This act" [1989 c 358] consisted of the enactment of RCW 2.42.200 through 2.42.270, the 1989 c 358 amendments to RCW 2.42.010, 2.42.020, and 2.42.050, and a severability clause.

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.040 Fees and expenses—Cost of providing interpreter.** (1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed. [1989 c 358 § 4. Formerly RCW 2.42.230.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.050 Oath.** Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment. [1989 c 358 § 5. Formerly RCW 2.42.240.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.060 Waiver of right to interpreter.** (1) The right to a qualified interpreter may not be waived except when:

(a) A non-English-speaking person requests a waiver; and

(b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings. [1989 c 358 § 6. Formerly RCW 2.42.250.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.070 Testing, certification of interpreters.** (1) Subject to the availability of funds, the office of the administrator for the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The office of the administrator for the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The office of the administrator for the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The office of the administrator for the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The office of the administrator for the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office of the administrator for the courts.

(6) The office of the administrator for the courts may charge reasonable fees for testing, training, and certification. [1989 c 358 § 7. Formerly RCW 2.42.260.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

**2.43.080 Code of ethics.** All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule. [1989 c 358 § 8. Formerly RCW 2.42.270.]

**Severability—1989 c 358:** See note following RCW 2.43.010.

## Chapter 2.56

### ADMINISTRATOR FOR THE COURTS

#### Sections

2.56.110 Driving while under the influence of intoxicating liquor or any drug, laws related to, enhanced enforcement—Assignment of visiting district judges—Powers, expenses.

**2.56.110 Driving while under the influence of intoxicating liquor or any drug, laws related to, enhanced enforcement—Assignment of visiting district judges—Powers, expenses.** The administrator for the courts may assign one or more district judges from other judicial

districts to serve as visiting district judges in a judicial district which the administrator determines is experiencing an increase in case filings as the result of enhanced enforcement of laws related to driving, or being in physical control of, a motor vehicle while under the influence of intoxicating liquor or any drug. The prosecuting, city, or town attorney of the county, city, or town in which a judicial district lies, or the presiding judge of the judicial district, may request the administrator for the courts to designate the district as an enhanced enforcement district and to make assignments under this section. An assignment shall be for a specified period of time not to exceed thirty days. A visiting district judge has the same powers as a district judge of the district to which he or she is assigned. A visiting district judge shall be reimbursed for expenses under RCW 2.56.070. [1991 c 290 § 1; 1987 c 202 § 109; 1983 c 165 § 31.]

**Intent**—1987 c 202: See note following RCW 2.04.190.

**Legislative finding, intent**—**Effective dates**—**Severability**—1983 c 165: See notes following RCW 46.20.308.

**Venue, criminal actions:** RCW 3.66.070.

### Title 3

## DISTRICT COURTS—COURTS OF LIMITED JURISDICTION

(Formerly: Justice Courts—Courts of Limited Jurisdiction)

### Chapters

- 3.30 District courts.
- 3.34 District judges.
- 3.38 District court districts.
- 3.58 Salaries and expenses.
- 3.62 Income of court.
- 3.66 Jurisdiction and venue.
- 3.74 Miscellaneous.

### Chapter 3.30

#### DISTRICT COURTS

(Formerly: Justice courts)

#### Sections

- 3.30.020 Application of chapters 3.30 through 3.74 RCW.

**3.30.020 Application of chapters 3.30 through 3.74 RCW.** The provisions of chapters 3.30 through 3.74 RCW shall apply to each county with a population of two hundred ten thousand or more: PROVIDED, That any city having a population of more than four hundred thousand may by resolution of its legislative body elect to continue to operate a municipal court pursuant to the provisions of chapter 35.20 RCW, as if chapters 3.30 through 3.74 RCW had never been enacted: PROVIDED FURTHER, That if a city elects to continue its municipal court pursuant to this section, the number of district judges allocated to the county in RCW 3.34.010 shall be reduced by two and the number of full time district judges allocated by RCW 3.34.020 to the district

in which the city is situated shall also be reduced by two. The provisions of chapters 3.30 through 3.74 RCW may be made applicable to any county with a population of less than two hundred ten thousand upon a majority vote of its county legislative authority. [1991 c 363 § 4; 1987 c 202 § 110; 1961 c 299 § 2.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**Intent**—1987 c 202: See note following RCW 2.04.190.

*Municipal courts in cities of over four hundred thousand: Chapter 35.20 RCW.*

### Chapter 3.34

#### DISTRICT JUDGES

(Formerly: Justices of the peace)

#### Sections

- 3.34.010 District judges—Number for each county.
- 3.34.020 District judges—Number—Changes.
- 3.34.025 District judge positions—Approval and agreement.
- 3.34.040 District judges—Full time—Other.
- 3.34.060 District judges—Eligibility and qualifications.

**3.34.010 District judges—Number for each county.** The number of district judges to be elected in each county shall be: Adams, three; Asotin, one; Benton, two; Chelan, one; Clallam, one; Clark, four; Columbia, one; Cowlitz, two; Douglas, one; Ferry, two; Franklin, one; Garfield, one; Grant, one; Grays Harbor, two; Island, three; Jefferson, one; King, twenty-six; Kitsap, two; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, two; Pend Oreille, two; Pierce, eleven; San Juan, one; Skagit, three; Skamania, one; Snohomish, eight; Spokane, nine; Stevens, two; Thurston, one; Wahkiakum, one; Walla Walla, three; Whatcom, two; Whitman, two; Yakima, six: PROVIDED, That this number may be increased in accordance with a resolution of the county commissioners under RCW 3.34.020. [1991 c 354 § 1; 1989 c 227 § 6; 1987 c 202 § 111; 1975 1st ex.s. c 153 § 1; 1973 1st ex.s. c 14 § 1; 1971 ex.s. c 147 § 1; 1970 ex.s. c 23 § 1; 1969 ex.s. c 66 § 1; 1965 ex.s. c 110 § 5; 1961 c 299 § 10.]

**Intent**—1989 c 227: See note following RCW 3.38.070.

**Intent**—1987 c 202: See note following RCW 2.04.190.

**3.34.020 District judges—Number—Changes.** (1) Any change in the number of full and part-time district judges after January 1, 1992, shall be determined by the legislature after receiving a recommendation from the supreme court. The supreme court shall make its recommendations to the legislature based on a weighted caseload analysis that takes into account the following:

(a) The extent of time that existing judges have available to hear cases in that court;

(b) A measurement of the judicial time needed to process various types of cases;

(c) A determination of the time required to process each type of case to the individual court workload;

(d) A determination of the amount of a judge's annual work time that can be devoted exclusively to processing cases; and

(e) An assessment of judicial resource needs, including annual case filings, and case weights and the judge year value determined under the weighted caseload method.

(2) The administrator for the courts, under the supervision of the supreme court, may consult with the board of judicial administration, the judicial council, and the district and municipal court judge's association in developing the procedures and methods of applying the weighted caseload analysis.

(3) For each recommended change from the number of full and part-time district judges in any county as of January 1, 1992, the administrator for the courts, under the supervision of the supreme court, shall complete a judicial impact note detailing any local or state cost associated with such recommended change.

(4) If the legislature approves an increase in the base number of district judges in any county as of January 1, 1992, such increase in the base number of district judges and all related costs may be paid for by the county from moneys provided under RCW 82.14.310, and any such costs shall be deemed to be expended for criminal justice purposes as provided in RCW 82.14.315, and such expenses shall not constitute a supplanting of existing funding.

(5)(a) A county legislative authority that desires to change the number of full or part-time district judges from the base number on January 1, 1992, must first request the assistance of the supreme court. The administrator for the courts, under the supervision of the supreme court, shall conduct a weighted caseload analysis and make a recommendation of its findings to the legislature for consideration as provided in this section.

(b) The legislative authority of any county may change a part-time district judge position to a full-time position. [1991 c 313 § 2; 1987 c 202 § 112; 1984 c 258 § 8; 1982 c 29 § 1; 1973 1st ex.s. c 14 § 2; 1970 ex.s. c 23 § 2; 1969 ex.s. c 66 § 7; 1961 c 299 § 11.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**3.34.025 District judge positions—Approval and agreement.** Any additional district judge positions created under RCW 3.34.020 shall be effective only if the legislative authority of the affected county documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities. The legislative authority of any such county may, at its discretion, phase in any judicial positions over a period of time not to exceed two years from the effective date of the additional district judge positions. [1991 c 313 § 3.]

**3.34.040 District judges—Full time—Other.** A district judge serving a district having a population of forty thousand or more persons, and a district judge receiving a salary equal to the maximum salary set by the salary commission under RCW 3.58.020 for district judges shall be deemed full time judges and shall devote all of their time to the office and shall not engage in the practice of law. Other judges shall devote sufficient time to the office to properly fulfill the duties thereof and may engage in other occupations but shall maintain a separate office for private business and shall not use for private business the services of any clerk or secretary paid for by the county or office space or supplies furnished by the judicial district. [1991 c 338 § 2; 1984 c 258 § 10; 1983 c 195 § 1; 1974 ex.s. c 95 § 2; 1971 ex.s. c 147 § 2; 1961 c 299 § 13.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**3.34.060 District judges—Eligibility and qualifications.** To be eligible to file a declaration of candidacy for and to serve as a district court judge, a person must:

(1) Be a registered voter of the district court district and electoral district, if any; and

(2) Be either:

(a) A lawyer admitted to practice law in the state of Washington; or

(b) A person who has been elected and has served as a justice of the peace, district judge, municipal judge, or police judge in Washington; or

(c) In those districts having a population of less than five thousand persons, a person who has taken and passed the qualifying examination for the office of district judge as shall be provided by rule of the supreme court. [1991 c 361 § 1; 1989 c 227 § 4; 1984 c 258 § 12; 1961 c 299 § 15.]

**Intent—1989 c 227:** See note following RCW 3.38.070.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

## Chapter 3.38

### DISTRICT COURT DISTRICTS

(Formerly: Justice court districts)

#### Sections

3.38.030

Districting plan—Adoption.

3.38.070

Establishment of separate electoral districts.

3.38.080

Separate electoral districts—Definition.

**3.38.030 Districting plan—Adoption.** Upon receipt of the districting plan, the county legislative authority shall hold a public hearing, pursuant to the provisions of RCW 36.32.120(7), as now or hereafter amended. At the hearing, anyone interested in the plan may attend and be heard as to the convenience which will be afforded to the public by the plan, and as to any other matters pertaining thereto. If the county legislative authority finds that the plan proposed by the districting committee conforms to the standards set forth in chapters 3.30 through 3.74 RCW and is conducive to the best interests and welfare of the county as a whole it may

adopt such plan. If the county legislative authority finds that the plan does not conform to the standards as provided in chapters 3.30 through 3.74 RCW, the county legislative authority may modify, revise or amend the plan and adopt such amended or revised plan as the county's district court districting plan. The plan decided upon shall be adopted by the county legislative authority not later than six months after the county initially obtains a population of two hundred ten thousand or more or the adoption of the elective resolution. [1991 c 363 § 5; 1984 c 258 § 25; 1965 ex.s. c 110 § 2; 1961 c 299 § 27.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Court Improvement Act of 1984**—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

**3.38.070 Establishment of separate electoral districts.** A county legislative authority for a county that has a single district but has multiple locations for courtrooms may establish separate electoral districts to provide for election of district court judges by subcounty local districts. In any county containing a city of more than four hundred thousand population, the legislative authority of such a county shall establish such separate electoral districts. The procedures in chapter 3.38 RCW for the establishment of district court districts apply to the establishment of separate electoral districts authorized by this section. [1990 c 257 § 1; 1989 c 227 § 2.]

**Intent**—1989 c 227: "It is the intent of the legislature to continue to provide the option for local election of district court judges where a county district court with multiple courtrooms is unified into a single district court for operational and administrative purposes." [1989 c 227 § 1.]

**3.38.080 Separate electoral districts—Definition.** In any county in which separate electoral districts have been established pursuant to RCW 3.38.070, the term "district" also means "electoral district" for purposes of RCW 3.38.022, 3.38.050, and 3.38.060. [1990 c 257 § 2.]

### Chapter 3.58 SALARIES AND EXPENSES

Sections  
3.58.020 Salaries of part time district judges.

**3.58.020 Salaries of part time district judges.** The annual salaries of part time district judges shall be set by the citizens' commission on salaries. [1991 c 338 § 3; 1984 c 258 § 35; 1982 c 29 § 2; 1979 ex.s. c 255 § 9; 1974 ex.s. c 95 § 1; 1969 ex.s. c 192 § 1; 1961 c 299 § 101.]

**Court Improvement Act of 1984**—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

**Effective date**—1979 ex.s. c 255: See note following RCW 43.03.010.

**District judges**—Full time—Other: RCW 3.34.040.

### Chapter 3.62 INCOME OF COURT

Sections  
3.62.060 Filing fees in civil cases.

**3.62.060 Filing fees in civil cases.** In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of twenty-five dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action. [1990 c 172 § 2; 1987 c 382 § 2; 1984 c 258 § 309; 1981 c 330 § 1; 1980 c 162 § 9; 1969 c 25 § 1; 1965 c 55 § 1; 1961 c 299 § 110.]

**Effective date**—1990 c 172: See note following RCW 7.75.035.

**Court Improvement Act of 1984**—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

**Intent**—1984 c 258: See note following RCW 3.46.120.

**Severability**—1981 c 330: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 330 § 11.]

**Effective dates, savings**—Severability—1980 c 162: See notes following RCW 3.02.010.

### Chapter 3.66 JURISDICTION AND VENUE

Sections  
3.66.020 Civil jurisdiction.  
3.66.070 Venue—Criminal actions.

**3.66.020 Civil jurisdiction.** If the value of the claim or the amount at issue does not exceed twenty-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

(1) Actions arising on contract for the recovery of money;

(2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;

(3) Actions for a penalty;

(4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed twenty-five thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Actions on an undertaking or surety bond taken by the court;

(6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;

(7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects; and

(9) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of real property is not involved. [1991 c 33 § 1; 1984 c 258 § 41; 1981 c 331 § 7; 1979 c 102 § 3; 1965 c 95 § 1; 1961 c 299 § 113.]

**Effective date**—1991 c 33: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 33 § 7.]

**Court Improvement Act of 1984**—**Effective dates**—**Severability**—**Short title**—1984 c 258: See notes following RCW 3.30.010.

**Court Congestion Reduction Act of 1981**—**Purpose**—**Severability**—1981 c 331: See notes following RCW 2.32.070.

**Application, savings**—1979 c 102: "Sections 2, 3, and 4 of this 1979 amendatory act upon taking effect shall apply to all actions filed on or after December 8, 1977. Any party to an action which is pending on the effective date of this act shall be permitted to amend any pleadings to reflect such increase in court jurisdiction: *Provided*, That nothing in this act shall affect the validity of judicial acts taken prior to its effective date." [1979 c 102 § 5.]

**Severability**—1979 c 102: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 102 § 6.]

**Effective date**—1979 c 102: "Sections 2 through 5 of this 1979 amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1979." [1979 c 102 § 7.]

**3.66.070 Venue—Criminal actions.** All criminal actions shall be brought in the district where the alleged violation occurred: PROVIDED, That (1) the prosecuting attorney may file felony cases in the district in which the county seat is located, (2) with the consent of the defendant criminal actions other than those arising out of violations of city ordinances may be brought in or transferred to the district in which the county seat is located, and (3) if the alleged violation relates to driving, or being in actual physical control of, a motor vehicle while under the influence of intoxicating liquor or any drug and the alleged violation occurred within a judicial district which has been designated an enhanced enforcement district under RCW 2.56.110, the charges may be filed in that district or in a district within the same county which is adjacent to the district in which the alleged violation occurred. [1991 c 290 § 2; 1984 c 258 § 47; 1983 c 165 § 32; 1961 c 299 § 118.]

**Court Improvement Act of 1984**—**Effective dates**—**Severability**—**Short title**—1984 c 258: See notes following RCW 3.30.010.

**Legislative finding, intent**—**Effective dates**—**Severability**—1983 c 165: See notes following RCW 46.20.308.

### Chapter 3.74 MISCELLANEOUS

#### Sections

3.74.940 Validation—1991 c 363; 1965 ex.s. c 110.

**3.74.940 Validation**—1991 c 363; 1965 ex.s. c 110. Any prior action by the legislative authority of any

county with a population of less than two hundred ten thousand to make the provisions of chapters 3.30 through 3.74 RCW applicable to their county and the organization of any justice court as a result thereof, and all other things and proceedings done or taken by such county or by their respective officers acting under or in pursuance to such prior action and organization are hereby declared legal and valid and of full force and effect. [1991 c 363 § 6; 1965 ex.s. c 110 § 4.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

## Title 4 CIVIL PROCEDURE

### Chapters

- 4.12 Venue—Jurisdiction.
- 4.16 Limitation of actions.
- 4.24 Special rights of action and special immunities.
- 4.28 Commencement of actions.
- 4.44 Trial.
- 4.84 Costs.
- 4.92 Actions and claims against state.

### Chapter 4.12

#### VENUE—JURISDICTION

#### Sections

- 4.12.040 Prejudice—Transfer to another department—Visiting judge—Change of venue generally—Criminal cases. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
- 4.12.050 Affidavit of prejudice. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)

**4.12.040 Prejudice—Transfer to another department—Visiting judge—Change of venue generally—Criminal cases.** (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) (1) No judge or court commissioner of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge or commissioner is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court. In all judicial districts where there is only one judge, a certified copy of the motion and affidavit filed in the cause shall be transmitted by the clerk of the superior court to the clerk of the superior court designated by the chief justice of the supreme court. Upon receipt

the clerk of said superior court shall transmit the forwarded affidavit to the presiding judge who shall direct a visiting judge to hear and try such action as soon as convenient and practical.

(2) The presiding judge in judicial districts where there is more than one judge, or the presiding judge of judicial districts where there is only one judge, may send a case for trial to another court if the convenience of witnesses or the ends of justice will not be interfered with by such a course and the action is of such a character that a change of venue may be ordered: PROVIDED, That in criminal prosecutions the case shall not be sent for trial to any court outside the county unless the accused shall waive his right to a trial by a jury of the county in which the offense is alleged to have been committed. [1991 c 300 § 2; 1989 c 15 § 1; 1961 c 303 § 1; 1927 c 145 § 1; 1911 c 121 § 1; RRS § 209-1.]

**Contingent effective date**—1991 c 300: See note following RCW 2.24.010.

*Criminal proceedings, venue and jurisdiction: Chapter 10.25 RCW.*

**4.12.050 Affidavit of prejudice.** (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) Any party to or any attorney appearing in any action or proceeding in a superior court, may establish such prejudice by motion, supported by affidavit that the judge or court commissioner before whom the action is pending is prejudiced against such party or attorney, so that such party or attorney cannot, or believes that he or she cannot, have a fair and impartial trial before such judge or court commissioner: PROVIDED, That such motion and affidavit is filed and called to the attention of the judge or court commissioner before he or she shall have made any ruling whatsoever in the case, either on the motion of the party making the affidavit, or on the motion of any other party to the action, of the hearing of which the party making the affidavit has been given notice, and before the judge or court commissioner presiding has made any order or ruling involving discretion, but the arrangement of the calendar, the setting of an action, motion or proceeding down for hearing or trial, the arraignment of the accused in a criminal action or the fixing of bail, shall not be construed as a ruling or order involving discretion within the meaning of this proviso; and in any event, in counties where there is but one resident judge, such motion and affidavit shall be filed not later than the day on which the case is called to be set for trial: AND PROVIDED FURTHER, That notwithstanding the filing of such motion and affidavit, if the parties shall, by stipulation in writing agree, such judge or commissioner may hear argument and rule upon any preliminary motions, demurrers, or other matter thereafter presented: AND PROVIDED FURTHER, That no party or attorney shall be permitted to make more than one such application in any action or proceeding under this section and RCW 4.12.040. [1991 c 300 § 3; 1941 c 148 § 1; 1927 c 145 § 2; 1911 c 121 § 2; Rem. Supp. 1941 § 209-2.]

**Rules of court: Demurrers abolished**—CR 7(c).

**Contingent effective date**—1991 c 300: See note following RCW 2.24.010.

## Chapter 4.16 LIMITATION OF ACTIONS

### Sections

4.16.340 Actions based on childhood sexual abuse.

#### 4.16.340 Actions based on childhood sexual abuse.

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within the later of the following periods:

(a) Within three years of the act alleged to have caused the injury or condition;

(b) Within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act; or

(c) Within three years of the time the victim discovered that the act caused the injury for which the claim is brought:

PROVIDED, That the time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen years.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed. [1991 c 212 § 2; 1989 c 317 § 2; 1988 c 144 § 1.]

**Finding—Intent**—1991 c 212: "The legislature finds that:

(1) Childhood sexual abuse is a pervasive problem that affects the safety and well-being of many of our citizens.

(2) Childhood sexual abuse is a traumatic experience for the victim causing long-lasting damage.

(3) The victim of childhood sexual abuse may repress the memory of the abuse or be unable to connect the abuse to any injury until after the statute of limitations has run.

(4) The victim of childhood sexual abuse may be unable to understand or make the connection between childhood sexual abuse and emotional harm or damage until many years after the abuse occurs.

(5) Even though victims may be aware of injuries related to the childhood sexual abuse, more serious injuries may be discovered many years later.

(6) The legislature enacted RCW 4.16.340 to clarify the application of the discovery rule to childhood sexual abuse cases. At that time the legislature intended to reverse the Washington supreme court decision in *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986).

It is still the legislature's intention that *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the line of cases that state that discovery of any injury whatsoever caused by an act of childhood sexual abuse commences the statute of limitations. The legislature intends that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later." [1991 c 212 § 1.]

**Intent—1989 c 317:** "(1) The legislature finds that possible confusion may exist in interpreting the statute of limitations provisions for child sexual abuse civil actions in RCW 4.16.190 and 4.16.340 regarding the accrual of a cause of action for a person under age eighteen. The legislature finds that amending RCW 4.16.340 will clarify that the time limit for commencement of an action under RCW 4.16.340 is tolled until the child reaches age eighteen. The 1989 amendment to RCW 4.16.340 is intended as a clarification of existing law and is not intended to be a change in the law.

(2) The legislature further finds that the enactment of chapter 145, Laws of 1988, which deleted specific reference to RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b) from RCW 9A.04.080 and also deleted those specific referenced provisions from the laws of Washington, did not intend to change the statute of limitations governing those offenses from seven to three years." [1989 c 317 § 1.]

**Application—1988 c 144:** "Sections 1 and 2 of this act apply to all causes of action commenced on or after June 9, 1988, regardless of when the cause of action may have arisen. To this extent, sections 1 and 2 of this act apply retrospectively." [1988 c 144 § 3.]

### Chapter 4.24

## SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

#### Sections

4.24.130	Action for change of name.
4.24.210	Liability of owners or others in possession of land and water areas for injuries to recreation users— Limitation.
4.24.550	Sex offenders—Release of information to public— When authorized—Immunity.
4.24.555	Release of information not restricted by pending appeal, petition, or writ.
4.24.560	Defense to action for injury caused by indoor air pollutants.
4.24.570	Acts against animals in research or educational facilities.
4.24.575	Acts against animals kept for agricultural or veterinary purposes.
4.24.580	Acts against animal facilities—Injunction.
4.24.590	Liability of foster parents.

**4.24.130 Action for change of name.** Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the district court of the judicial district in which he or she resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former. [1991 c 33 § 5; Code 1881 § 635; 1877 p 132 § 638; RRS § 998.]

**Effective date—1991 c 33:** See note following RCW 3.66.020.

**4.24.210 Liability of owners or others in possession of land and water areas for injuries to recreation users—Limitation.** (1) Except as otherwise provided in subsection (3) of this section, any public or private landowners or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels,

who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to ten dollars for the cutting, gathering, and removing of firewood from the land. Nothing in this section shall prevent the liability of such a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. Nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(4) For purposes of this section, a license or permit issued for state-wide use under authority of chapter 43-.51 RCW, Title 75, or Title 77 RCW is not a fee. [1991 c 69 § 1; 1991 c 50 § 1; 1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

**Reviser's note:** This section was amended by 1991 c 50 § 1 and by 1991 c 69 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—1972 ex.s. c 153:** See RCW 67.32.080.

*Off-road and nonhighway vehicles: Chapter 46.09 RCW.*

*Snowmobiles: Chapter 46.10 RCW.*

**4.24.550 Sex offenders—Release of information to public—When authorized—Immunity.** (1) Public agencies are authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection.

(2) An elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency

acted with gross negligence or in bad faith. The authorization and immunity in this section applies to information regarding: (a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW 9.94A.030; (b) a person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under chapter 71.09 RCW. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

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

(4) Nothing in this section implies that information regarding persons designated in subsection (2) of this section is confidential except as otherwise provided by statute. [1990 c 3 § 117.]

**Finding—Policy—1990 c 3 § 117:** "The legislature finds that sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

Therefore, this state's policy as expressed in RCW 4.24.550 is to require the exchange of relevant information about sexual predators among public agencies and officials and to authorize the release of necessary and relevant information about sexual predators to members of the general public." [1990 c 3 § 116.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

*Release of information regarding*

*convicted sex offenders: RCW 9.94A.153, 9.95.145.*

*juveniles found to have committed sex offenses: RCW 13.40.217.*

*persons in custody of department of social and health services: RCW 10.77.207, 71.05.427, 71.06.135, 71.09.120.*

**4.24.555 Release of information not restricted by pending appeal, petition, or writ.** An offender's pending appeal, petition for personal restraint, or writ of habeas corpus shall not restrict the agency's, official's, or employee's authority to release relevant information concerning an offender's prior criminal history. However, the agency must release the latest dispositions of the charges as provided in chapter 10.97 RCW, the Washington state criminal records privacy act. [1990 c 3 § 118.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**4.24.560 Defense to action for injury caused by indoor air pollutants.** It is a defense in a civil action brought for damages for injury caused by indoor air pollutants in a residential structure on which construction was begun on or after July 1, 1991, that the builder or design professional complied in good faith, without negligence or misconduct, with:

(1) Building product safety standards, including labeling;

(2) Restrictions on the use of building materials known or believed to contain substances that contribute to indoor air pollution; and

(3) The ventilation requirements adopted under RCW 19.27.190. [1990 c 2 § 8.]

**Effective dates—1990 c 2:** See note following RCW 19.27.040.

**Findings—Severability—1990 c 2:** See notes following RCW 19.27A.015.

**4.24.570 Acts against animals in research or educational facilities.** (1) Joint and several liability for damages shall apply to persons and organizations that commit an intentional tort by (a) taking, releasing, destroying, contaminating, or damaging any animal or animals kept in a research or educational facility, where the animal or animals are used or to be used for medical research or other research purposes, or for educational purposes; or (b) destroying or damaging any records, equipment, research product, or other thing pertaining to such animal or animals.

(2) Any person or organization that plans or assists in the development of a plan to commit an intentional tort covered by subsection (1) of this section is liable for damages to the same extent as a person who has committed the tort. However, a person or organization that assists in the development of a plan is not liable under this subsection, if, at the time of providing the assistance the person or organization does not know, or have reason to know, that the assistance is promoting the commission of the tort. Membership in a liable organization does not in itself establish the member's liability under this subsection. The common law defense of prior renunciation is allowed in actions brought under this subsection.

(3) In any case where damages are awarded under this section, the court shall award to the plaintiff all costs of the litigation, including reasonable attorneys' fees, investigation costs, and court costs, and shall impose on any liable party a civil fine of not to exceed one hundred thousand dollars to be paid to the plaintiff. [1991 c 325 § 3.]

**Severability—1991 c 325:** See note following RCW 9.08.080.

**4.24.575 Acts against animals kept for agricultural or veterinary purposes.** (1) Joint and several liability for damages shall apply to persons and organizations that commit an intentional tort by taking, releasing, destroying or damaging any animal or animals kept by a person for agricultural production purposes or by a veterinarian for veterinary purposes; or by destroying or damaging

any farm or veterinary equipment or supplies pertaining to such animal or animals.

(2) Any person or organization that plans or assists in the development of a plan to commit an intentional tort covered by subsection (1) of this section is liable for damages to the same extent as a person who has committed the tort. However, a person or organization that assists in the development of a plan is not liable under this subsection, if, at the time of providing the assistance the person or organization does not know, or have reason to know, that the assistance is promoting the commission of the tort. Membership in a liable organization does not in itself establish the member's liability under this subsection. The common law defense of prior renunciation is allowed in actions brought under this subsection.

(3) In any case where damages are awarded under this section, the court shall award to the plaintiff all costs of the litigation, including reasonable attorneys' fees, investigation costs, and court costs, and shall impose on any liable party a civil fine of not to exceed one hundred thousand dollars to be paid to the plaintiff.

(4) "Agricultural production," for purposes of this section, means all activities associated with the raising of animals for agricultural purposes, including but not limited to animals raised for wool or fur. Agricultural production also includes the exhibiting or marketing of live animals raised for agricultural purposes. [1991 c 325 § 4.]

**Severability**—1991 c 325: See note following RCW 9.08.080.

**4.24.580 Acts against animal facilities—Injunction.** Any individual having reason to believe that he or she may be injured by the commission of an intentional tort under RCW 4.24.570 or 4.24.575 may apply for injunctive relief to prevent the occurrence of the tort. Any individual who owns or is employed at a research or educational facility or an agricultural production facility where animals are used for research, educational, or agricultural purposes who is harassed, or believes that he or she is about to be harassed, by an organization, person, or persons whose intent is to stop or modify the facility's use or uses of an animal or animals, may apply for injunctive relief to prevent the harassment.

For the purposes of this section:

(1) "Agricultural production" means all activities associated with the raising of animals for agricultural purposes, including but not limited to animals raised for wool or fur. Agricultural production also includes the exhibiting or marketing of live animals raised for agricultural purposes; and

(2) "Harassment" means any threat, without lawful authority, that the recipient has good reason to fear will be carried out, that is knowingly made for the purpose of stopping or modifying the use of animals, and that either (a) would cause injury to the person or property of the recipient, or result in the recipient's physical confinement or restraint, or (b) is a malicious threat to do any other act intended to substantially cause harm to the recipient's mental health or safety. [1991 c 325 § 5.]

**Severability**—1991 c 325: See note following RCW 9.08.080.

**4.24.590 Liability of foster parents.** In actions for personal injury or property damage commenced by foster children or their parents against foster parents licensed pursuant to chapter 74.15 RCW, the liability of foster parents for the care and supervision of foster children shall be the same as the liability of biological and adoptive parents for the care and supervision of their children. [1991 c 283 § 3.]

**Findings**—**Effective date**—1991 c 283: See notes following RCW 74.14B.080.

## Chapter 4.28

### COMMENCEMENT OF ACTIONS

#### Sections

4.28.080 Summons, how served. (Effective January 1, 1992.)

**4.28.080 Summons, how served. (Effective January 1, 1992.)** The summons shall be served by delivering a copy thereof, as follows:

(1) If the action be against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his usual abode with some person of suitable age and discretion then resident therein.

Service made in the modes provided in this section shall be taken and held to be personal service. [1991 1st sp.s. c 30 § 28; 1987 c 361 § 1; 1977 ex.s. c 120 § 1; 1967 c 11 § 1; 1957 c 202 § 1; 1893 c 127 § 7; RRS § 226, part. FORMER PART OF SECTION: 1897 c 97 § 1 now codified in RCW 4.28.081.]

**Rules of court: Service of process—CR 4(d), (e).**

**Effective date, implementation, application—Severability—1991 1st sp.s. c 30:** See RCW 48.62.900 and 48.62.901.

**Severability—1977 ex.s. c 120:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 120 § 3.]

**Service of process on**

*foreign corporation: RCW 23B.15.100 and 23B.15.310.*

*foreign savings and loan association: RCW 33.32.050.*

*nonadmitted foreign corporation: RCW 23B.18.040.*

*nonresident motor vehicle operator: RCW 46.64.040.*

### Chapter 4.44 TRIAL

Sections

4.44.025 Priority permitted for aged or ill parties in civil cases.

**4.44.025 Priority permitted for aged or ill parties in civil cases.** When setting civil cases for trial, unless otherwise provided by statute, upon motion of a party, the court may give priority to cases in which a party is frail and over seventy years of age or is afflicted with a terminal illness. [1991 c 197 § 1.]

### Chapter 4.84 COSTS

Sections

4.84.185 Prevailing party to receive expenses for opposing frivolous action or defense.

**4.84.185 Prevailing party to receive expenses for opposing frivolous action or defense.** In any civil action, the court having jurisdiction may, upon written findings by the judge that the action, counterclaim, cross-claim, third party claim, or defense was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action, counterclaim, cross-claim, third party claim, or defense. This determination shall be made upon motion by the prevailing party after a voluntary or involuntary order of dismissal, order on summary judgment, final judgment after trial, or other final order terminating the action as to the prevailing party. The judge shall consider all evidence presented at the time of the motion to determine whether the position of the nonprevailing party was frivolous and advanced without reasonable cause. In no event may such motion be filed more than thirty days after entry of the order.

The provisions of this section apply unless otherwise specifically provided by statute. [1991 c 70 § 1; 1987 c 212 § 201; 1983 c 127 § 1.]

*Administrative law, frivolous petitions for judicial review: RCW 34.05.598.*

### Chapter 4.92

#### ACTIONS AND CLAIMS AGAINST STATE

Sections

4.92.130 Tortious conduct of state—Liability account—Purpose.  
4.92.135 Tort claims revolving fund.  
4.92.160 Payment of claims and judgments.  
4.92.220 Risk management account created—Purpose.

**4.92.130 Tortious conduct of state—Liability account—Purpose.** A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers.

(1) The purpose of the liability account is to: (a) expeditiously pay legal liabilities of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages exclusive of legal defense costs and agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

- (a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or
- (b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager, with the consultation and advice of the risk management advisory committee and concurrence from the office of financial management. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director of the office of financial management may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount will be prorated back to the appropriate funds. [1991 1st sp.s. c 13 § 92; 1989 c 419 § 4; 1985 c 217 § 3; 1975 1st ex.s. c 126 § 3; 1969 c 140 § 1; 1963 c 159 § 7.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Transfer of funds—Fund abolished—1989 c 419:** "Moneys in the tort claims revolving fund shall be deposited in the liability account to be used for payment of liabilities incurred before July 1, 1989. The tort claim revolving fund is abolished." [1989 c 419 § 13.]

**Intent—Effective date—1989 c 419:** See notes following RCW 4.92.006.

**Severability—1969 c 140:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 140 § 5.]

*Actions against regents, trustees, etc., of institutions of higher education or educational boards, payments of obligations from fund:* RCW 28B.10.842.

*Department of general administration to conduct actuarial studies:* RCW 43.19.19369.

**4.92.135 Tort claims revolving fund.** The tort claims revolving fund is created in the custody of the treasurer to be used solely and exclusively for the payment of claims arising out of tortious conduct taking place prior to July 1, 1990 and against both the state and its officers, employees, and volunteers for whom the defense of the claims was authorized under RCW 4.92.070.

Moneys paid from the revolving fund for any claim are limited to the amount by which the claim exceeds the amount available to the claimant from any valid and collectible liability insurance. Payment from the revolving fund shall not be made until the claim has been approved for payment in accordance with RCW 4.92.210. [1991 c 187 § 1.]

**Intent—1991 c 187:** "It is the intent of the legislature that the tort claims revolving fund created under section 1 of this act have [has] the same purpose, use, and application as the tort claims revolving fund abolished effective July 1, 1989, by the legislature in chapter 419, Laws of 1989." [1991 c 187 § 2.]

**4.92.160 Payment of claims and judgments.** Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the risk management office, and that office shall authorize and direct the payment of moneys only from the tort claims revolving fund whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to the risk management office that a claim has been settled; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state. [1991 c 187 § 3; 1986 c 126 § 9; 1979 ex.s. c 144 § 3; 1979 c 151 § 5; 1975 1st ex.s. c 126 § 6; 1969 c 140 § 2; 1963 c 159 § 10.]

**Intent—1991 c 187:** See note following RCW 4.92.135.

**Severability—1969 c 140:** See note following RCW 4.92.130.

*Duty of clerk to forward copy of judgment:* RCW 4.92.040.

**4.92.220 Risk management account created—Purpose.** (1) A risk management account is hereby created in the treasury to be an appropriated account used exclusively for the payment of costs related to:

(a) The administration of liability, property and vehicle claims, including investigation, claim processing, negotiation and settlement, and other expenses relating to settlements and judgments against the state not otherwise budgeted; and

(b) Purchase of liability and property insurance, including catastrophic insurance, subject to policy conditions and limitations determined by the risk manager.

(2) The risk management account shall be financed through a combination of direct appropriations and assessments to state agencies. [1991 1st sp.s. c 13 § 91; 1989 c 419 § 5.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Intent—Effective date—1989 c 419:** See notes following RCW 4.92.006.

## Title 5 EVIDENCE

### Chapters

**5.44 Proof—Public documents.**

**5.60 Witnesses—Competency.****Chapter 5.44****PROOF—PUBLIC DOCUMENTS**

Sections	
5.44.040	Certified copies of public records as evidence.
5.44.140	Proceedings for determination of family relationships—Presumption.

**5.44.040 Certified copies of public records as evidence.** Copies of all records and documents on record or on file in the offices of the various departments of the United States and of this state or any other state or territory of the United States, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, shall be admitted in evidence in the courts of this state. [1991 c 59 § 1; 1891 c 19 § 16; Code 1881 § 432; 1854 p 195 § 336; RRS § 1257.]

*Rules of court:* Cf. ER 803; CR 44(a)(1).

**5.44.140 Proceedings for determination of family relationships—Presumption.** In any proceeding regarding the determination of a family relationship, including but not limited to the parent and child relationship and the marriage relationship, a determination of family relationships regarding any person or persons who immigrated to the United States from a foreign country which was made or accepted by the United States immigration and naturalization service at the time of that person or persons' entry into the United States creates a rebuttable presumption that the determination is valid and that the family relationship under foreign law is as made or accepted at the time of entry. Except as provided in RCW 26.26.040 (1)(f) and (2), the presumption may be overcome by a preponderance of evidence showing that a living person other than the person named by the United States immigration and naturalization service is in the relationship in question. [1990 c 175 § 1.]

**Chapter 5.60****WITNESSES—COMPETENCY**

Sections	
5.60.070	Mediation—Disclosure—Testimony.
5.60.072	Mediation by agency—Privilege and confidentiality.

**5.60.070 Mediation—Disclosure—Testimony.**

(1) If there is a court order to mediate or a written agreement between the parties to mediate, then any communication made or materials submitted in, or in connection with, the mediation proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except:

(a) When all parties to the mediation agree, in writing, to disclosure;

(b) When the written materials or tangible evidence are otherwise subject to discovery, and were not prepared specifically for use in and actually used in the mediation proceeding;

(c) When a written agreement to mediate permits disclosure;

(d) When disclosure is mandated by statute;

(e) When the written materials consist of a written settlement agreement or other agreement signed by the parties resulting from a mediation proceeding;

(f) When those communications or written materials pertain solely to administrative matters incidental to the mediation proceeding, including the agreement to mediate; or

(g) In a subsequent action between the mediator and a party to the mediation arising out of the mediation.

(2) When there is a court order or written agreement to mediate as described in subsection (1) of this section, the mediator or a representative of a mediation organization shall not testify in any judicial or administrative proceeding unless:

(a) All parties to the mediation and the mediator agree in writing; or

(b) In an action described in subsection (1)(g) of this section. [1991 c 321 § 1.]

**Severability—1991 c 321:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 321 § 3.]

**5.60.072 Mediation by agency—Privilege and confidentiality.** Notwithstanding the provisions of RCW 5.60.070, when any party participates in mediation conducted by a state or federal agency under the provisions of a collective bargaining law or similar statute, the agency's rules govern questions of privilege and confidentiality. [1991 c 321 § 2.]

**Severability—1991 c 321:** See note following RCW 5.60.070.

**Title 6****ENFORCEMENT OF JUDGMENTS****Chapters**

<b>6.13</b>	<b>Homesteads.</b>
<b>6.15</b>	<b>Personal property exemptions.</b>
<b>6.27</b>	<b>Garnishment.</b>
<b>6.44</b>	<b>Uniform foreign-money claims act.</b>

**Chapter 6.13****HOMESTEADS**

Sections	
6.13.030	Homestead exemption limited.

**6.13.030 Homestead exemption limited.** A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of

the lands, mobile home, and improvements as described in RCW 6.13.010, or (2) the sum of thirty thousand dollars, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption. [1991 c 123 § 2; 1987 c 442 § 203; 1983 1st ex.s. c 45 § 4; 1981 c 329 § 10; 1977 ex.s. c 98 § 3; 1971 ex.s. c 12 § 1; 1955 c 29 § 1; 1945 c 196 § 3; 1895 c 64 § 24; Rem. Supp. 1945 § 552. Formerly RCW 6.12.050.]

**Purpose**—1991 c 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of retired persons residing in the state of Washington from collection of income taxes imposed by other states." [1991 c 123 § 1.]

**Severability**—1981 c 329: See note following RCW 6.21.020.

**Severability**—1971 ex.s. c 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 12 § 5.] For codification of 1971 ex.s. c 12, see Codification Tables, Volume 0.

## Chapter 6.15

### PERSONAL PROPERTY EXEMPTIONS

#### Sections

6.15.010	Exempt property specified.
6.15.020	Pension money exempt—Exceptions.
6.15.025	Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax.

**6.15.010 Exempt property specified.** Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

(1) All wearing apparel of every individual and family, but not to exceed one thousand dollars in value in furs, jewelry, and personal ornaments for any individual.

(2) All private libraries of every individual, but not to exceed fifteen hundred dollars in value, and all family pictures and keepsakes.

(3) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(a) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed two thousand seven hundred dollars in value, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(b) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed one thousand dollars in value, of which not more than one hundred dollars in value may consist of cash, and of which not more than one hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities; and

(c) Two motor vehicles used for personal transportation, not to exceed two thousand five hundred dollars in aggregate value.

(4) To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed five thousand dollars in value;

(b) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed five thousand dollars in value;

(c) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed five thousand dollars in value.

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon. [1991 c 112 § 1; 1988 c 231 § 5; 1987 c 442 § 301; 1983 1st ex.s. c 45 § 8; 1979 ex.s. c 65 § 1; 1973 1st ex.s. c 154 § 13; 1965 c 89 § 1; 1886 p 96 § 1; Code 1881 § 347; 1879 p 157 § 1; 1877 p 73 § 351; 1869 p 87 § 343; 1854 p 178 § 253; RRS § 563. Formerly RCW 6.16.020.]

**Severability**—1988 c 231: See note following RCW 6.01.050.

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

#### 6.15.020 Pension money exempt—Exceptions. (1)

It is the policy of the state of Washington to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Washington under 11 U.S.C. Sec. 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this subsection, the same shall be exempt to the family as provided in this subsection. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall

permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan, or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in sections 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington or any political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the trustee or custodian of the plan and the beneficiary, or the ability of the debtor to withdraw or borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. [1990 c 237 § 1; 1989 c 360 § 21; 1988 c 231 § 6. Prior: 1987 c 64 § 1; 1890 p 88 § 1; RRS § 566. Formerly RCW 6.16.030.]

**Severability—1990 c 237:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 237 § 2.]

**Severability—1988 c 231:** See note following RCW 6.01.050.

**6.15.025 Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax.** Where a judgment is in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from

a pension or other retirement plan, all property in this state, real or personal, tangible or intangible, of a judgment debtor shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her spouse and dependents any property exempted by this section, the same shall be exempt to the surviving spouse and dependents. [1991 c 123 § 3.]

**Purpose—1991 c 123:** See note following RCW 6.13.030.

## Chapter 6.27 GARNISHMENT

### Sections

6.27.150 Exemption of earnings—Amount.

**6.27.150 Exemption of earnings—Amount.** (1) Except as provided in subsection (2) of this section, if the garnishee is an employer owing the defendant earnings, then for each week of such earnings, an amount shall be exempt from garnishment which is the greatest of the following:

(a) Thirty times the federal minimum hourly wage prescribed by section 206(a)(1) of Title 29 of the United States Code in effect at the time the earnings are payable; or

(b) Seventy-five percent of the disposable earnings of the defendant.

(2) In the case of a garnishment based on a judgment or other court order for child support or court order for spousal maintenance, other than a mandatory wage assignment order pursuant to chapter 26.18 RCW, or a mandatory assignment of retirement benefits pursuant to chapter 41.50 RCW, the exemption shall be fifty percent of the disposable earnings of the defendant if the individual is supporting a spouse or dependent child (other than a spouse or child on whose behalf the garnishment is brought), or forty percent of the disposable earnings of the defendant if the individual is not supporting such a spouse or dependent child.

(3) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether earnings are due the defendant for one week, a portion thereof, or for a longer period.

(4) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant.

(5) No money due or earned as earnings as defined in RCW 6.27.010 shall be exempt from garnishment under the provisions of RCW 6.15.010, as now or hereafter amended. [1991 c 365 § 26; 1987 c 442 § 1015; 1981 c 193 § 6; 1971 c 6 § 1; 1970 ex.s. c 61 § 3; 1969 ex.s. c 264 § 28. Formerly RCW 7.33.280.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

## Chapter 6.44

## UNIFORM FOREIGN-MONEY CLAIMS ACT

## Sections

6.44.010	Definitions. (Effective January 1, 1992.)
6.44.020	Scope. (Effective January 1, 1992.)
6.44.030	Variation by agreement. (Effective January 1, 1992.)
6.44.040	Determining money of the claim. (Effective January 1, 1992.)
6.44.050	Determining amount of the money of certain contract claims. (Effective January 1, 1992.)
6.44.060	Asserting and defending foreign-money claim. (Effective January 1, 1992.)
6.44.070	Judgments and awards on foreign-money claims— Times of money conversion—Form of judgment. (Effective January 1, 1992.)
6.44.080	Conversions of foreign money in distribution proceeding. (Effective January 1, 1992.)
6.44.090	Prejudgment and judgment interest. (Effective January 1, 1992.)
6.44.100	Enforcement of foreign judgments. (Effective January 1, 1992.)
6.44.110	Determining United States dollar value of foreign-money claims for limited purposes. (Effective January 1, 1992.)
6.44.120	Effect of currency revalorization. (Effective January 1, 1992.)
6.44.130	Supplementary general principles of law. (Effective January 1, 1992.)
6.44.140	Uniformity of application and construction. (Effective January 1, 1992.)
6.44.901	Short title.
6.44.902	Effective date—1991 c 153.
6.44.903	Severability—1991 c 153.
6.44.904	Prospective application.

**6.44.010 Definitions. (Effective January 1, 1992.)** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this chapter, is:

(a) Paid to a claimant in an action or distribution proceeding;

(b) Paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) Used to recoup, set off, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to RCW 6.44.040.

(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States. [1991 c 153 § 1.]

**6.44.020 Scope. (Effective January 1, 1992.)** (1) This chapter applies only to a foreign-money claim in an action or distribution proceeding.

(2) This chapter applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding. [1991 c 153 § 2.]

**6.44.030 Variation by agreement. (Effective January 1, 1992.)** (1) The effect of this chapter may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction. [1991 c 153 § 3.]

**6.44.040 Determining money of the claim. (Effective January 1, 1992.)** (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) Regularly used between the parties as a matter of usage or course of dealing;

(b) Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) In which the loss was ultimately felt or will be incurred by the party claimant. [1991 c 153 § 4.]

**6.44.050 Determining amount of the money of certain contract claims.** (Effective January 1, 1992.) (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly. [1991 c 153 § 5.]

**6.44.060 Asserting and defending foreign-money claim.** (Effective January 1, 1992.) (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law. [1991 c 153 § 6.]

**6.44.070 Judgments and awards on foreign-money claims—Times of money conversion—Form of judgment.** (Effective January 1, 1992.) (1) Except as provided in subsection (3) of this section, a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) A judgment or award made in an action or distribution proceeding on both (a) a defense, set-off, recoupment, or counterclaim, and (b) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(6) A judgment substantially in the following form complies with subsection (1) of this section:

IT IS ADJUDGED AND ORDERED, that defendant (insert name) pay to plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate—see RCW 6.44.090) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by RCW 6.44.050 (a) or (b) [(1) or (2)], the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment must be filed or docketed and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment. [1991 c 153 § 7.]

**6.44.080 Conversions of foreign money in distribution proceeding.** (Effective January 1, 1992.) The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated. [1991 c 153 § 8.]

**6.44.090 Prejudgment and judgment interest.** (Effective January 1, 1992.) (1) With respect to a foreign-money claim, recovery of prejudgment or preaward interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (2) of this section, are matters of the substantive law governing the right to recovery under the conflict of laws rules of this state.

(2) The court or arbitrator shall increase or decrease the amount of prejudgment or preaward interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(3) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state. [1991 c 153 § 9.]

**6.44.100 Enforcement of foreign judgments. (Effective January 1, 1992.)** (1) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in RCW 6.44.070, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(2) A foreign judgment may be filed or docketed in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(3) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(4) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only. [1991 c 153 § 10.]

**6.44.110 Determining United States dollar value of foreign-money claims for limited purposes. (Effective January 1, 1992.)** (1) Computations under this section are for the limited purposes of this section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(2) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (3) and (4) of this section.

(3) A party seeking process, costs, bond, or other undertaking under subsection (2) of this section, shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) of this section shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate. [1991 c 153 § 11.]

**6.44.120 Effect of currency revalorization. (Effective January 1, 1992.)** (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) of this section occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money. [1991 c 153 § 12.]

**6.44.130 Supplementary general principles of law. (Effective January 1, 1992.)** Unless displaced by particular provisions of this chapter, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions. [1991 c 153 § 13.]

**6.44.140 Uniformity of application and construction. (Effective January 1, 1992.)** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1991 c 153 § 14.]

**6.44.901 Short title.** This chapter may be cited as the uniform foreign-money claims act. [1991 c 153 § 15.]

**6.44.902 Effective date—1991 c 153.** This chapter shall take effect January 1, 1992. [1991 c 153 § 16.]

**6.44.903 Severability—1991 c 153.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 153 § 17.]

**6.44.904 Prospective application.** This chapter applies prospectively only and not retroactively. It applies only to causes of action which are commenced on or after January 1, 1992. [1991 c 153 § 18.]

## Title 7

### SPECIAL PROCEEDINGS AND ACTIONS

#### Chapters

- 7.06** Mandatory arbitration of civil actions.
- 7.28** Ejectment, quieting title.
- 7.40** Injunctions.
- 7.48** Nuisances.
- 7.48A** Moral nuisances.
- 7.64** Replevin.
- 7.68** Victims of crimes—Compensation, assistance.
- 7.72** Product liability actions.
- 7.75** Dispute resolution centers.

#### Chapter 7.06

#### MANDATORY ARBITRATION OF CIVIL ACTIONS

##### Sections

- 7.06.010 Authorization.

**7.06.010 Authorization.** In counties with a population of seventy thousand or more, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter. In all other counties, the superior court of the county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter. [1991 c 363 § 7; 1984 c 258 § 511; 1979 c 103 § 1.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

~~Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.~~

#### Chapter 7.28

#### EJECTMENT, QUIETING TITLE

##### Sections

- 7.28.230 Mortgagee cannot maintain action for possession—Possession to collect mortgaged, pledged, or assigned rents and profits—Perfection of security interest.

**7.28.230 Mortgagee cannot maintain action for possession—Possession to collect mortgaged, pledged, or assigned rents and profits—Perfection of security interest.** (1) A mortgage of any interest in real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property, without a foreclosure and sale according to law: PROVIDED, That nothing in this section shall be construed as any limitation upon the right of the owner of real property to mortgage, pledge or assign the rents and profits thereof, nor as prohibiting the mortgagee, pledgee or assignee of such rents and profits, or any trustee under a mortgage or trust deed either contemporaneously or upon the happening of a future event of default, from entering into possession of any real property, other than farm lands or the homestead of the

mortgagor or his successor in interest, for the purpose of collecting the rents and profits thereof for application in accordance with the provisions of the mortgage or trust deed or other instrument creating the lien, nor as any limitation upon the power of a court of equity to appoint a receiver to take charge of such real property and collect such rents and profits thereof for application in accordance with the terms of such mortgage, trust deed or assignment.

(2) Until paid, the rents and profits of real property constitute real property for the purposes of mortgages, trust deeds or assignments whether or not said rents and profits have accrued. The provisions of RCW 65.08.070 as now or hereafter amended shall be applicable to such rents and profits, and such rents and profits are excluded from Article 62A.9 RCW.

(3) The recording of an assignment, mortgage, or pledge of unpaid rents and profits of real property, intended as security, in accordance with RCW 65.08.070, shall immediately perfect the security interest in the assignee, mortgagee, or pledgee and shall not require any further action by the holder of the security interest to be perfected as to any subsequent purchaser, mortgagee, or assignee. Any lien created by such assignment, mortgage, or pledge shall, when recorded, be deemed specific, perfected, and choate even if recorded prior to July 23, 1989. [1991 c 188 § 1; 1989 c 73 § 1; 1969 ex.s. c 122 § 1; Code 1881 § 546; 1877 p 114 § 550; 1869 p 130 § 498; RRS § 804.]

#### Chapter 7.40

#### INJUNCTIONS

##### Sections

- 7.40.230 Injunctions—Fraud in obtaining telecommunications service.

**7.40.230 Injunctions—Fraud in obtaining telecommunications service.** (1) Whenever it appears that any person is engaged in or about to engage in any act that constitutes or will constitute a violation of RCW 9.26A.110 or 9.26A.090, the prosecuting attorney, a telecommunications company, or any person harmed by an alleged violation of RCW 9.26A.110 or 9.26A.090 may initiate a civil proceeding in superior court to enjoin such violation, and may petition the court to issue an order for the discontinuance of the specific telephone service being used in violation of RCW 9.26A.110 or 9.26A.090.

(2) An action under this section shall be brought in the county in which the unlawful act or acts are alleged to have taken place, and shall be commenced by the filing of a verified complaint, or shall be accompanied by an affidavit.

(3) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or about to engage in any act that constitutes a violation of RCW 9.26A.110 or 9.26A.090, the court may issue a temporary restraining order to abate and prevent the continuance or recurrence of the act. The

court may direct the sheriff to seize and retain until further order of the court any device that is being used in violation of RCW 9.26A.110 or 9.26A.090. All property seized pursuant to the order of the court shall remain in the custody of the court.

(4) The court may issue a permanent injunction to restrain, abate or prevent the continuance or recurrence of the violation of RCW 9.26A.110 or 9.26A.090. The court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction. The court may retain jurisdiction of the case for the purpose of enforcing its orders.

(5) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or is about to engage in any act that constitutes a violation of RCW 9.26A.110 or 9.26A.090, the court may issue an order which shall be promptly served upon the person in whose name the telecommunications device is listed, requiring the party, within a reasonable time, to be fixed by the court, from the time of service of the petition on said party, to show cause before the judge why telephone service should not promptly be discontinued. At the hearing the burden of proof shall be on the complainant.

(6) Upon a finding by the court that the telecommunications device is being used or has been used in violation of RCW 9.26A.110, the court may issue an order requiring the telephone company which is rendering service over the device to disconnect such service. Upon receipt of such order, which shall be served upon an officer of the telephone company by the sheriff or deputy of the county in which the telecommunications device is installed, the telephone company shall proceed promptly to disconnect and remove such device and discontinue all telephone service until further order of the court, provided that the telephone company may do so without breach of the peace or trespass.

(7) The telecommunications company that petitions the court for the removal of any telecommunications device under this section shall be a necessary party to any proceeding or action arising out of or under RCW 9.26A.110.

(8) No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for any legal act performed in compliance with any order issued by the court.

(9) Property seized pursuant to the direction of the court that the court has determined to have been used in violation of RCW 9.26A.110 shall be forfeited after notice and hearing. The court may remit or mitigate the forfeiture upon terms and conditions as the court deems reasonable if it finds that such forfeiture was incurred without gross negligence or without any intent of the petitioner to violate the law, or it finds the existence of such mitigating circumstances as to justify the remission or the mitigation of the forfeiture. In determining whether to remit or mitigate forfeiture, the court shall consider losses that may have been suffered by victims as the result of the use of the forfeited property. [1990 c 11 § 4.]

Severability—1990 c 11: See RCW 9.26A.900.

## Chapter 7.48 NUISANCES

Sections	
7.48.050	Moral nuisances—Definitions.
7.48.052	Moral nuisances.
7.48.054	Moral nuisance—Personal property—Effects of notice.
7.48.310	Agricultural activities—Definitions.

**7.48.050 Moral nuisances—Definitions.** The definitions set forth in this section shall apply throughout this chapter as they relate to moral nuisances.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness, assignation, or prostitution which occur on the premises.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, in person or by electronic transmission, with or without consideration.

(5) "Matter" shall mean a live performance, a motion picture film, or a publication or any combination thereof.

(6) "Moral nuisance" means a nuisance which is injurious to public morals.

(7) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Films, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(8) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(9) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(10) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

(11) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter. [1990 c 152 § 1; 1979 c 1 § 1 (Initiative Measure No. 335, approved November 8, 1977); 1913 c 127 § 1; RRS § 946-1.]

**Severability—1990 c 152:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 152 § 6.]

**7.48.052 Moral nuisances.** The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition, or where lewd live performances are publicly exhibited as a regular course of business;

(2) Any and every place in the state where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition, or where a lewd live performance is publicly and repeatedly exhibited;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(4) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a moral nuisance under this section;

(6) Every place which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such place in or upon which acts of lewdness, assignation, or prostitution are conducted, permitted, carried on, continued, or exist;

(7) All public houses or places of resort where illegal gambling is carried on or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, illegal gambling, fighting, or breaches of the peace are carried on or permitted; all houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection or any other means. [1990 c 152 § 2; 1988 c 141 § 1; 1979 c 1 § 2 (Initiative Measure No. 335, approved November 8, 1977).]

**Severability—1990 c 152:** See note following RCW 7.48.050.

**Severability—1988 c 141:** See RCW 7.43.900.

**7.48.054 Moral nuisance—Personal property—Effects of notice.** The following are also declared to be moral nuisances, as personal property used in conducting and maintaining a moral nuisance:

(1) All moneys paid as admission price to the exhibition of any lewd film or lewd live performance found to be a moral nuisance;

(2) All valuable consideration received for the sale of any lewd publication which is found to be a moral nuisance;

(3) The furniture, fixtures, and contents of a place which is a moral nuisance.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in RCW 7.48.064, upon the place or its manager, acting manager, or person then in charge, all such persons are deemed to have knowledge of the acts, conditions, or things which make such place a moral nuisance. Where the circumstantial proof warrants a determination that a person had knowledge of the moral nuisance prior to such service of process, the court shall make such finding. [1990 c 152 § 3; 1979 c 1 § 3 (Initiative Measure No. 335, approved November 8, 1977).]

**Severability—1990 c 152:** See note following RCW 7.48.050.

**7.48.310 Agricultural activities—Definitions.** As used in RCW 7.48.305:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other agricultural commodities.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur. [1991 c 317 § 2; 1979 c 122 § 3.]

**Chapter 7.48A**  
**MORAL NUISANCES**

## Sections

7.48A.010 Definitions.  
7.48A.020 Moral nuisances—Declaration of.

**7.48A.010 Definitions.** The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises, or knowledge that controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, or injection or any other means.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, in person or by electronic transmission, with or without consideration.

(5) "Matter" shall mean a live performance, a motion picture film, or a publication or any combination thereof.

(6) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(7) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(8) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(9) "Prurient" means that which incites lasciviousness or lust.

(10) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(11) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter. [1990 c 152 § 4; 1988 c 141 § 2; 1982 c 184 § 1.]

**Severability—1990 c 152:** See note following RCW 7.48.050.

**Severability—1988 c 141:** See RCW 7.43.900.

**7.48A.020 Moral nuisances—Declaration of.** The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition, or where lewd live performances are publicly exhibited as a regular course of business;

(2) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(3) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(4) Every place which, as a regular course of business, is used for the purpose of lewdness or prostitution, and every such place in or upon which acts of lewdness or prostitution are conducted, permitted, carried on, continued, or exist;

(5) All houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other means. [1990 c 152 § 5; 1988 c 141 § 3; 1982 c 184 § 2.]

**Severability—1990 c 152:** See note following RCW 7.48.050.

**Severability—1988 c 141:** See RCW 7.43.900.

**Chapter 7.64**  
**REPLEVIN**

## Sections

7.64.010	Plaintiff may claim and obtain immediate delivery.
7.64.020	Application for delivery—Order to show cause—Petition—Hearing.
7.64.035	Order awarding possession of property to plaintiff—Bond by plaintiff—Final judgment.
7.64.045	Plaintiff's duties upon issuance of order awarding possession of property.
7.64.047	Sheriff to take possession of property.
7.64.050	Redelivery bond.
7.64.060	Repealed.
7.64.080	Repealed.

7.64.090	Repealed.
7.64.100	Claim by third party.
7.64.110	Return of proceedings by sheriff.
7.64.115	Execution of final judgment.
7.64.120	Repealed.
7.64.901	Severability—1990 c 227.

**7.64.010 Plaintiff may claim and obtain immediate delivery.** The plaintiff in an action to recover the possession of personal property may claim and obtain the immediate delivery of such property, after a hearing, as provided in this chapter.

The remedies provided under this chapter are in addition to any other remedy available to the plaintiff, including a secured creditor's right of self-help repossession. [1990 c 227 § 1; 1979 ex.s. c 132 § 1; Code 1881 § 142; 1877 p 30 § 142; 1869 p 35 § 140; 1854 p 150 § 100; RRS § 707.]

**7.64.020 Application for delivery—Order to show cause—Petition—Hearing.** (1) At the time of filing the complaint or any time thereafter, the plaintiff may apply to the judge or court commissioner to issue an order directing the defendant to appear and show cause why an order putting the plaintiff in immediate possession of the personal property should not be issued.

(2) In support of the application, the plaintiff, or someone on the plaintiff's behalf, shall make an affidavit, or a declaration as permitted under RCW 9A.72-.085, showing:

(a) That the plaintiff is the owner of the property or is lawfully entitled to the possession of the property by virtue of a special property interest, including a security interest, specifically describing the property and interest;

(b) That the property is wrongfully detained by defendant;

(c) That the property has not been taken for a tax, assessment, or fine pursuant to a statute and has not been seized under an execution or attachment against the property of the plaintiff, or if so seized, that it is by law exempt from such seizure; and

(d) The approximate value of the property.

(3) The order to show cause shall state the date, time, and place of the hearing, which shall be set no earlier than ten and no later than twenty-five days after the date of the order.

(4) A certified copy of the order to show cause, with a copy of the plaintiff's affidavit or declaration attached, shall be served upon the defendant no later than five days before the hearing date. [1990 c 227 § 2; 1979 ex.s. c 132 § 2; Code 1881 § 143; 1877 p 30 § 143; 1869 p 35 § 141; 1854 p 150 § 101; RRS § 708.]

**7.64.035 Order awarding possession of property to plaintiff—Bond by plaintiff—Final judgment.** (1) At the hearing on the order to show cause, the judge or court commissioner may issue an order awarding possession of the property to the plaintiff and directing the sheriff to put the plaintiff in possession of the property:

(a)(i) If the plaintiff establishes the right to obtain possession of the property pending final disposition, or

(ii) if the defendant, after being served with the order to show cause, fails to appear at the hearing; and

(b) If the plaintiff executes to the defendant and files in the court a bond in such sum as the court may order, with sufficient surety to be approved by the clerk, conditioned that the plaintiff will prosecute the action without delay and that if the order is wrongfully sued out, the plaintiff will pay all costs that may be adjudged to the defendant and all damages, court costs, reasonable attorneys' fees, and costs of recovery that the defendant may incur by reason of the order having been issued.

(2) An order awarding possession shall: (a) State that a show cause hearing was held; (b) describe the property and its location; (c) direct the sheriff to take possession of the property and put the plaintiff in possession as provided in this chapter; (d) if deemed necessary, direct the sheriff to break and enter a building or enclosure to obtain possession of the property if it is concealed in the building or enclosure; and (e) be signed by the judge or commissioner.

(3) If at the time of the hearing more than twenty days have elapsed since service of the summons and complaint and the defendant does not raise an issue of fact prior to or at the hearing that requires a trial on the issue of possession or damages, the judge or court commissioner may also, in addition to entering an order awarding possession, enter a final judgment awarding plaintiff possession of the property or its value if possession cannot be obtained, damages, court costs, reasonable attorneys' fees, and costs of recovery. [1990 c 227 § 3; 1979 ex.s. c 132 § 5.]

**7.64.045 Plaintiff's duties upon issuance of order awarding possession of property.** After issuance of the order awarding possession, the plaintiff shall deliver a copy of the bond and a certified copy of the order awarding possession to the sheriff of the county where the property is located and shall provide the sheriff with all available information as to the location and identity of the defendant and the property claimed. If the property is returned to the plaintiff by the defendant or if the plaintiff otherwise obtains possession of the property, the plaintiff shall notify the sheriff of this fact as soon as possible. [1990 c 227 § 4; 1979 ex.s. c 132 § 6.]

**7.64.047 Sheriff to take possession of property.** (1) After receiving an order awarding possession, the sheriff shall take possession of the property. If the property or any part of it is concealed in a building or enclosure, the sheriff shall publicly demand delivery of the property. If the property is not delivered and if the order awarding possession so directs, the sheriff shall cause the building or enclosure to be broken open and take possession of the property.

(2) At the time of taking possession of the property, the sheriff shall serve copies of the bond and the order awarding possession on the defendant or, if someone other than the defendant is in possession of the property, shall serve the copies on that person. If the copies of the bond and the order are not served on the defendant at the time of taking possession, the sheriff shall, within a

reasonable time after taking possession, give notice to the defendant either by serving copies of the bond and order on the defendant in the same manner as a summons in a civil action or by causing the copies to be mailed to the defendant by both regular mail and certified mail, return receipt requested.

(3) As soon as possible after taking possession of the property and after receiving lawful fees for taking possession and necessary expenses for keeping the property, the sheriff shall release the property to the plaintiff, unless before the release the defendant has, as provided in RCW 7.64.050, given a redelivery bond to the sheriff or filed a redelivery bond with the court and notified the sheriff of that fact. [1990 c 227 § 5.]

**7.64.050 Redelivery bond.** (1) At the hearing on the order to show cause or at any time before the sheriff takes possession of the property, the defendant may post a redelivery bond and retain possession of the property pending final judgment in the action for possession. At any time after the sheriff takes possession and before release of the property to the plaintiff as provided in RCW 7.64.047, the defendant may require the sheriff to return the property by posting a redelivery bond.

(2) A redelivery bond may be given to the sheriff or filed with the court. If the bond is filed with the court after a certified copy of the order awarding possession has been issued to the sheriff, the defendant shall give notice of the filing to the sheriff.

(3) The redelivery bond shall be executed by one or more sufficient sureties to the effect that they are bound in an amount equal to the value of the bond filed by the plaintiff, conditioned that the defendant will deliver the property to the plaintiff if judgment is entered for the plaintiff in the action for possession and will pay any sum recovered by the plaintiff in that action.

(4) The defendant's sureties, upon a notice to the plaintiff or the plaintiff's attorney, of not less than two, nor more than six days, shall justify as provided by law; upon such justification, the sheriff shall release the property to the defendant. The sheriff shall be responsible for the defendant's sureties until they justify, or until justification is completed or expressly waived, and may retain the property until that time; but if they, or others in their place, fail to justify at the time and place appointed, the sheriff shall release the property to the plaintiff. [1990 c 227 § 6; 1979 ex.s. c 132 § 3; Code 1881 § 146; 1877 p 31 § 146; 1869 p 36 § 144; 1854 p 151 § 104; RRS § 711.]

**7.64.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**7.64.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**7.64.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**7.64.100 Claim by third party.** If the property taken by the sheriff is claimed by any person other than the defendant or the defendant's agent, the claimant may assert the claim by intervening in the plaintiff's action for possession. [1990 c 227 § 7; 1979 ex.s. c 132 § 4; Code 1881 § 151; 1877 p 32 § 151; 1869 p 37 § 149; 1854 p 151 § 109; RRS § 716.]

**7.64.110 Return of proceedings by sheriff.** The sheriff shall file a return of proceedings with the clerk of the court in which the action is pending within twenty days after taking possession of the property. [1990 c 227 § 8; 1891 c 34 § 1; Code 1881 § 152; 1877 p 32 § 152; 1869 p 38 § 150; 1854 p 152 § 110; RRS § 717.]

**7.64.115 Execution of final judgment.** To the extent the final judgment entered at a show cause hearing or at any other time is not satisfied by proceedings under an order awarding possession issued at the show cause hearing, the judgment shall be executed in the same manner as any other judgment. [1990 c 227 § 9.]

**7.64.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**7.64.901 Severability—1990 c 227.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 227 § 11.]

## Chapter 7.68

### VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

Sections	Definitions.
7.68.020	Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns.
7.68.060	Applications for benefits—Accrual of rights.
7.68.070	Benefits—Right to and amount—Limitations.
7.68.080	Medical aid—Construction.
7.68.085	Cap on medical benefits—Alternative programs—Plan for reduction of expenditures.

**7.68.020 Definitions.** The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state, or an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state; and the crime occurred in a state which does not have a crime victims compensation program, for which the victim is

eligible as set forth in the Washington compensation law except as follows:

(a) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless:

(i) The injury or death was intentionally inflicted;

(ii) The operation thereof was part of the commission of another non-vehicular criminal act as defined in this section;

(iii) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained: PROVIDED, That in cases where a probable criminal defendant has died in perpetration of vehicular assault or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits; or

(iv) Injury or death caused by a driver in violation of RCW 46.61.502;

(b) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in subsection (2)(a)(iii) of this section;

(c) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(d) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter. [1990 c 73 § 1; 1987 c 281 § 6; 1985 c 443 § 11; 1983 c 239 § 4; 1980 c 156 § 2; 1977 ex.s. c 302 § 2; 1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

**Effective date**—1990 c 73: "This act shall take effect October 1, 1990." [1990 c 73 § 2.]

**Application**—1987 c 281 § 6: "The 1987 amendments to RCW 7.68.020 by section 5 [6] of this act apply only to vehicular assault under RCW 46.61.522 or vehicular homicide under RCW 46.61.520 that occurs after the effective date of this section." [1987 c 281 § 7.] The effective date referred to is June 30, 1987.

**Effective date**—1987 c 281: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 281 § 9.]

**Severability**—**Effective date**—1985 c 443: See notes following RCW 7.69.010.

**Legislative intent**—"Public or private insurance"—1980 c 156: "Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of *Wagner v. Labor & Indus.*, 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare, medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and fire fighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability." [1980 c 156 § 1.] For codification of 1980 c 156, see Codification Tables, Volume 0.

**7.68.035 Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns.** (1) Whenever any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and seventy-five dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) Whenever any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such

forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Each county shall deposit not less than one and seventy-five one-hundredths percent of the money it retains under RCW 10.82.070 and chapter 3.62 RCW and all money it receives under subsection (8) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section

until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Penalty assessments under this section shall also be imposed in juvenile offense dispositions under Title 13 RCW. Upon motion of a party and a showing of good cause, the court may modify the penalty assessment in the disposition of juvenile offenses under Title 13 RCW.

(8) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.46.120, 3.50.100, and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section. [1991 c 293 § 1; 1989 c 252 § 29; 1987 c 281 § 1; 1985 c 443 § 13; 1984 c 258 § 311; 1983 c 239 § 1; 1982 1st ex.s. c 8 § 1; 1977 ex.s. c 302 § 10.]

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**Severability—Effective date—1985 c 443:** See notes following RCW 7.69.010.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Intent—1984 c 258:** See note following RCW 3.46.120.

**Effective dates—1982 1st ex.s. c 8:** "Chapter 8, Laws of 1982 1st ex. sess. is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 27, 1982], except sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 § 29; 1982 1st ex.s. c 8 § 9.] For codification of 1982 1st ex.s. c 8, see Codification Tables, Volume 0.

**Intent—Reports—1982 1st ex.s. c 8:** "The intent of the legislature is that the victim of crime program will be self-funded. Toward that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim assistance, as provided in RCW 7.68-.035, be re-examined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 § 10.]

**7.68.060 Applications for benefits—Accrual of rights.** (1) For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 as now or

hereafter amended shall apply: PROVIDED, That no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within one year after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of dependents or beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

(2) This section shall apply only to criminal acts reported after December 31, 1985.

(3) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim. [1990 c 3 § 501; 1986 c 98 § 1; 1985 c 443 § 14; 1977 ex.s. c 302 § 4; 1975 1st ex.s. c 176 § 2; 1973 1st ex.s. c 122 § 6.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—Effective date—1985 c 443:** See notes following RCW 7.69.010.

**7.68.070 Benefits—Right to and amount—Limitations.** The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32-.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32-.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services. [1990 c 3 § 502; 1989 1st ex.s. c 5 § 5; 1989 c 12 § 2; 1987 c 281 § 8; 1985 c 443 § 15; 1983 c 239 § 2; 1982 1st ex.s. c 8 § 2; 1981 1st ex.s. c 6 § 26; 1977 ex.s. c 302 § 5; 1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**Severability—Application—Effective dates—1989 1st ex.s. c 5:** See notes following RCW 7.68.015.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**Application—1985 c 443 § 15:** "The amendments to RCW 7.68-.070 by this act apply only to criminal acts occurring after December 31, 1985." [1986 c 98 § 3; 1985 c 443 § 17.]

**Severability—Effective date—1985 c 443:** See notes following RCW 7.69.010.

**Effective dates—Intent—Reports—1982 1st ex.s. c 8:** See notes following RCW 7.68.035.

**Effective date—Severability—1981 1st ex.s. c 6:** See notes following RCW 74.04.005.

**7.68.080 Medical aid—Construction.** The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: PROVIDED, That:

(a) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090; and

(b) In the case of alleged rape or molestation of a child the reasonable costs of a colposcope examination shall be reimbursed from the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical charges along with all related fees under this chapter shall conform to regulations promulgated by the director. The director shall set these service levels and fees at a level no lower than those established by the department of social and health services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge. [1990 c 3 § 503; 1989 1st ex.s. c 5 § 6; 1986 c 98 § 2; 1983 c 239 § 3; 1981 1st ex.s. c 6 § 27; 1975 1st ex.s. c 176 § 4; 1973 1st ex.s. c 122 § 8.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—Application—Effective dates—1989 1st ex.s. c 5:** See notes following RCW 7.68.015.

**Effective date—Severability—1981 1st ex.s. c 6:** See notes following RCW 74.04.005.

**7.68.085 Cap on medical benefits—Alternative programs—Plan for reduction of expenditures.** The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent

victim under the same conditions as other medical services and if the medical services are:

(1) Necessary for a previously accepted condition;

(2) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

(3) Not available from an alternative source.

The director of financial management and the director of labor and industries shall monitor expenditures from the public safety and education account. Once each fiscal quarter, the director of financial management shall determine if expenditures from the public safety and education account during the prior fiscal quarter exceeded allotments by more than ten percent. Within thirty days of a determination that expenditures exceeded allotments by more than ten percent, the director of financial management shall develop and implement a plan to reduce expenditures from the account to a level that does not exceed the allotments. Such a plan may include across-the-board reductions in allotments from the account to all nonjudicial agencies except for the crime victims compensation program. In implementing the plan, the director of financial management shall seek the cooperation of judicial agencies in reducing their expenditures from the account. The director of financial management shall notify the legislative fiscal committees prior to implementation of the plan.

Development and implementation of the plan is not required if the director of financial management notifies the legislative fiscal committees that increases in the official revenue forecast for the public safety and education account for that fiscal quarter will eliminate the need to reduce expenditures from the account. The official revenue forecast for the public safety and education account shall be prepared by the economic and revenue forecast council pursuant to RCW 82.33.020 and 82.33.010.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services. [1990 c 3 § 504; 1989 1st ex.s. c 5 § 3.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—Transition plans—1989 1st ex.s. c 5 § 3:** "The cap on medical benefits established by section 3 of this act shall apply equally to current and future recipients of crime victims' compensation benefits. The director shall prepare individual transition plans for individuals who exceed the medical benefit cap on July 1, 1989. The transition plans must be completed within ninety days of July 1, 1989." [1989 1st ex.s. c 5 § 4.]

**Severability—Application—Effective dates—1989 1st ex.s. c 5:** See notes following RCW 7.68.015.

## Chapter 7.72

## PRODUCT LIABILITY ACTIONS

## Sections

7.72.010	Definitions.
7.72.040	Liability of product sellers other than manufacturers—Exception.

**7.72.010 Definitions.** For the purposes of this chapter, unless the context clearly indicates to the contrary:

(1) **Product seller.** "Product seller" means any person or entity that is engaged in the business of selling products, whether the sale is for resale, or for use or consumption. The term includes a manufacturer, wholesaler, distributor, or retailer of the relevant product. The term also includes a party who is in the business of leasing or bailing such products. The term "product seller" does not include:

(a) A seller of real property, unless that person is engaged in the mass production and sale of standardized dwellings or is otherwise a product seller;

(b) A provider of professional services who utilizes or sells products within the legally authorized scope of the professional practice of the provider;

(c) A commercial seller of used products who resells a product after use by a consumer or other product user: PROVIDED, That when it is resold, the used product is in essentially the same condition as when it was acquired for resale;

(d) A finance lessor who is not otherwise a product seller. A "finance lessor" is one who acts in a financial capacity, who is not a manufacturer, wholesaler, distributor, or retailer, and who leases a product without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(e) A licensed pharmacist who dispenses a prescription product manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed prescribing practitioner if the claim against the pharmacist is based upon strict liability in tort or the implied warranty provisions under the uniform commercial code, Title 62A RCW, and if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules as provided in RCW 7.72.040. Nothing in this subsection (1)(e) affects a pharmacist's liability under RCW 7.72.040(1).

(2) **Manufacturer.** "Manufacturer" includes a product seller who designs, produces, makes, fabricates, constructs, or remanufactures the relevant product or component part of a product before its sale to a user or consumer. The term also includes a product seller or entity not otherwise a manufacturer that holds itself out as a manufacturer.

A product seller acting primarily as a wholesaler, distributor, or retailer of a product may be a "manufacturer" but only to the extent that it designs, produces, makes, fabricates, constructs, or remanufactures the

product for its sale. A product seller who performs minor assembly of a product in accordance with the instructions of the manufacturer shall not be deemed a manufacturer. A product seller that did not participate in the design of a product and that constructed the product in accordance with the design specifications of the claimant or another product seller shall not be deemed a manufacturer for the purposes of RCW 7.72.030(1)(a).

(3) **Product.** "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce. Human tissue and organs, including human blood and its components, are excluded from this term.

The "relevant product" under this chapter is that product or its component part or parts, which gave rise to the product liability claim.

(4) **Product liability claim.** "Product liability claim" includes any claim or action brought for harm caused by the manufacture, production, making, construction, fabrication, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product. It includes, but is not limited to, any claim or action previously based on: Strict liability in tort; negligence; breach of express or implied warranty; breach of, or failure to, discharge a duty to warn or instruct, whether negligent or innocent; misrepresentation, concealment, or nondisclosure, whether negligent or innocent; or other claim or action previously based on any other substantive legal theory except fraud, intentionally caused harm or a claim or action under the consumer protection act, chapter 19.86 RCW.

(5) **Claimant.** "Claimant" means a person or entity asserting a product liability claim, including a wrongful death action, and, if the claim is asserted through or on behalf of an estate, the term includes claimant's decedent. "Claimant" includes any person or entity that suffers harm. A claim may be asserted under this chapter even though the claimant did not buy the product from, or enter into any contractual relationship with, the product seller.

(6) **Harm.** "Harm" includes any damages recognized by the courts of this state: PROVIDED, That the term "harm" does not include direct or consequential economic loss under Title 62A RCW. [1991 c 189 § 3; 1981 c 27 § 2.]

**Preamble—1981 c 27:** "Tort reform in this state has for the most part been accomplished in the courts on a case-by-case basis. While this process has resulted in significant progress and the harshness of many common law doctrines has to some extent been ameliorated by decisional law, the legislature has from time to time felt it necessary to intervene to bring about needed reforms such as those contained in the 1973 comparative negligence act.

The purpose of this amendatory act is to enact further reforms in the tort law to create a fairer and more equitable distribution of liability among parties at fault.

Of particular concern is the area of tort law known as product liability law. Sharply rising premiums for product liability insurance have increased the cost of consumer and industrial goods. These increases in premiums have resulted in disincentives to industrial innovation and the development of new products. High product liability premiums

may encourage product sellers and manufacturers to go without liability insurance or pass the high cost of insurance on to the consuming public in general.

It is the intent of the legislature to treat the consuming public, the product seller, the product manufacturer, and the product liability insurer in a balanced fashion in order to deal with these problems.

It is the intent of the legislature that the right of the consumer to recover for injuries sustained as a result of an unsafe product not be unduly impaired. It is further the intent of the legislature that retail businesses located primarily in the state of Washington be protected from the substantially increasing product liability insurance costs and unwarranted exposure to product liability litigation." [1981 c 27 § 1.] For codification of 1981 c 27, see Codification Tables, Volume 0.

**7.72.040 Liability of product sellers other than manufacturers—Exception.** (1) Except as provided in subsection (2) of this section, a product seller other than a manufacturer is liable to the claimant only if the claimant's harm was proximately caused by:

- (a) The negligence of such product seller; or
- (b) Breach of an express warranty made by such product seller; or
- (c) The intentional misrepresentation of facts about the product by such product seller or the intentional concealment of information about the product by such product seller.

(2) A product seller, other than a manufacturer, shall have the liability of a manufacturer to the claimant if:

(a) No solvent manufacturer who would be liable to the claimant is subject to service of process under the laws of the claimant's domicile or the state of Washington; or

(b) The court determines that it is highly probable that the claimant would be unable to enforce a judgment against any manufacturer; or

(c) The product seller is a controlled subsidiary of a manufacturer, or the manufacturer is a controlled subsidiary of the product seller; or

(d) The product seller provided the plans or specifications for the manufacture or preparation of the product and such plans or specifications were a proximate cause of the defect in the product; or

(e) The product was marketed under a trade name or brand name of the product seller.

(3) Subsection (2) of this section does not apply to a pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed practitioner if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules. [1991 c 189 § 2; 1981 c 27 § 5.]

### Chapter 7.75

#### DISPUTE RESOLUTION CENTERS

##### Sections

7.75.035 Surcharge by county legislative authority.

##### 7.75.035 Surcharge by county legislative authority.

(1) A county legislative authority may impose a surcharge of up to ten dollars on each civil filing fee in district court and a surcharge of up to fifteen dollars on

each filing fee for small claims actions for the purpose of funding dispute resolution centers established under this chapter.

(2) Any surcharge imposed shall be collected by the clerk of the court and remitted to the county treasurer for deposit in a separate account to be used solely for dispute resolution centers established under this chapter. Money received under this section is not subject to RCW 3.62.020(2) or 3.62.090. The accounts created pursuant to this subsection shall be audited by the state auditor in accordance with RCW 43.09.260. [1990 c 172 § 1.]

Effective date—1990 c 172: "This act shall take effect July 1, 1990." [1990 c 172 § 4.]

## Title 8

### EMINENT DOMAIN

#### Chapters

- 8.04 Eminent domain by state.
- 8.12 Eminent domain by cities.
- 8.25 Additional provisions applicable to eminent domain proceedings.

#### Chapter 8.04

#### EMINENT DOMAIN BY STATE

##### Sections

8.04.080 Order to direct determination of damages and offsetting benefits.

**8.04.080 Order to direct determination of damages and offsetting benefits.** The order shall direct that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking and appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and the use by the state of the lands, real estate, premises, and other property described in the petition. The determination shall be made within thirty days after the entry of such order, before a jury if trial by jury is demanded at the hearing either by the petitioner or by the respondents, otherwise by the court sitting without a jury. If no regular venire has been called so as to be available to serve within such time on application of the petitioner at the hearing, the court may by its order continue such determination to the next regular jury term if a regular venire will be called within sixty days, otherwise the court shall call a special jury within said sixty days and direct that a jury panel be selected and summoned pursuant to chapter 2.36 RCW, from the citizens of the county in which the lands, real estate,

premises, or other property sought to be appropriated are situated, as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the petitioner and respondents both consent to a less number of jurors (such number to be not less than three), and such consent is entered by the clerk in the minutes of such hearing. In any county with a population of less than seventy thousand, the costs of such special jury for the trial of such condemnation cases only shall be borne by the state. [1991 c 363 § 8; 1988 c 188 § 15; 1955 c 213 § 3. Prior: 1925 ex.s. c 98 § 1, part; 1891 c 74 § 4, part; RRS § 894, part.]

**Rules of court:** CR 47, 48.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Legislative findings—Severability—Effective date—1988 c 188:** See notes following RCW 2.36.010.

**Juries in courts of limited jurisdiction:** RCW 2.36.050.

### Chapter 8.12

#### EMINENT DOMAIN BY CITIES

##### Sections

8.12.020 Other terms defined.

**8.12.020 Other terms defined.** Whenever the word "person" is used in this chapter, the same shall be construed to include any company, corporation or association, the state or any county therein, and the words "city" or "town" wherever used, shall be construed to be either. Whenever the words "installment" or "installments" are used in this chapter, they shall be construed to include installment or installments of interest, as provided in RCW 8.12.420. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing. [1990 c 189 § 2; 1925 ex.s. c 115 § 4; 1907 c 153 § 52; RRS § 9277. Prior: 1905 c 55 § 51; 1893 c 84 § 51.]

### Chapter 8.25

#### ADDITIONAL PROVISIONS APPLICABLE TO EMINENT DOMAIN PROCEEDINGS

##### Sections

8.25.280 Valuation of public water systems.

**8.25.280 Valuation of public water systems.** Consistent with standard appraisal practices, the valuation of a public water system as defined in RCW 70.119A.020

[1990-91 RCW Supp—page 40]

shall reflect the cost of system improvements necessary to comply with health and safety rules of the state board of health and applicable regulations developed under chapter 43.20, 43.20A, or 70.116 RCW. [1990 c 133 § 9.]

**Findings—Severability—1990 c 133:** See notes following RCW 36.94.140.

## Title 9

### CRIMES AND PUNISHMENTS

(See also Washington Criminal Code, Title 9A RCW)

#### Chapters

- 9.08 Animals, crimes relating to.
- 9.26A Telecommunications crime.
- 9.40 Fire, crimes relating to.
- 9.41 Firearms and dangerous weapons.
- 9.45 Frauds and swindles.
- 9.46 Gambling—1973 act.
- 9.68A Sexual exploitation of children.
- 9.73 Privacy, violating right of.
- 9.92 Punishment.
- 9.94A Sentencing reform act of 1981.
- 9.95 Indeterminate sentences.
- 9.95B Interstate parole and probation hearing procedures.

#### Chapter 9.08

#### ANIMALS, CRIMES RELATING TO

##### Sections

- 9.08.080 Acts against animal facilities—Intent.
- 9.08.090 Acts against animal facilities.

**9.08.080 Acts against animal facilities—Intent.** There has been an increasing number of illegal acts committed against animal production and research facilities involving injury or loss of life to animals or humans, criminal trespass, and damage to property. These actions not only abridge the property rights of the owners, operators, and employees of the facility, they may also damage the public interest by jeopardizing crucial animal production or agricultural, scientific, or biomedical research. These actions may also threaten the public safety by exposing communities to public health concerns and creating traffic hazards. These actions substantially disrupt or damage research and result in the potential loss of physical and intellectual property. While the criminal code, particularly the malicious mischief crimes, adequately covers those who intentionally and without authority damage or destroy farm animals, the code does not adequately cover similar misconduct directed against research and educational facilities. Therefore, it is in the interest of the people of the state of Washington to protect the welfare of humans and animals, as well as the productive use of private or public funds, to promote and protect scientific and medical research, foster education, and preserve and enhance agricultural production.

It is the intent of the legislature that the courts in deciding applications for injunctive relief under RCW 4.24.580 give full consideration to the constitutional rights of persons to speak freely, to picket, and to conduct other lawful activities. [1991 c 325 § 1.]

**Severability**—1991 c 325: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 325 § 6.]

**9.08.090 Acts against animal facilities.** A person is guilty of a class C felony: If he or she, without authorization, knowingly takes, releases, destroys, contaminates, or damages any animal or animals kept in a research or educational facility where the animal or animals are used or to be used for medical research purposes or other research purposes or for educational purposes; or if he or she, without authorization, knowingly destroys or damages any records, equipment, research product, or other thing pertaining to such animal or animals. [1991 c 325 § 2.]

**Severability**—1991 c 325: See note following RCW 9.08.080.

## Chapter 9.26A

### TELECOMMUNICATIONS CRIME

(Formerly: Credit cards, crimes relating to)

#### Sections

9.26A.090	Telephone company credit cards—Prohibited acts.
9.26A.100	Definitions.
9.26A.110	Fraud in obtaining telecommunications service— Penalty.
9.26A.120	Fraud in operating coin-box telephone or other receptacle.
9.26A.130	Penalty for manufacture or sale of slugs to be used for coin.
9.26A.900	Severability—1990 c 11.

**9.26A.090 Telephone company credit cards—Prohibited acts.** Every person who sells, rents, lends, gives, advertises for sale or rental, or publishes the credit card number of an existing, canceled, revoked, expired, or nonexistent telephone company credit card, or the numbering or coding that is employed in the issuance of telephone company credit cards or access devices, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful charge, shall be guilty of a gross misdemeanor. [1990 c 11 § 3; 1974 ex.s. c 160 § 1.]

**9.26A.100 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Access device" shall have the same meaning as that contained in RCW 9A.56.010.

(2) "Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in

conjunction with such device, but does not mean an automated typewriter or typesetter, portable hand held calculator, or other similar device.

(3) "Computer trespass" shall have the same meaning as that contained in chapter 9A.52 RCW.

(4) "Credit card number" means the card number or coding appearing on a credit card or other form of authorization, including an identification card or plate issued to a person by any telecommunications provider that permits the person to whom it has been issued to obtain telecommunications service on credit. The term includes the number or description of the card or plate, even if the card or plate itself is not produced at the time the telecommunications service is obtained.

(5) "Publish" means the communication or dissemination of information to any one or more persons: (a) Orally, in person, or by telephone, radio, or television; (b) in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book; or (c) electronically, including by the use of recordings, computer networks, bulletin boards, or other means of electronic storage and retrieval.

(6) "Telecommunications" shall have the same meaning as that contained in RCW 80.04.010 and includes telecommunications service that originates, terminates, or both originates and terminates in this state.

(7) "Telecommunications company" shall have the same meaning as that contained in RCW 80.04.010.

(8) "Telecommunications device" means any operating procedure or code, instrument, apparatus, or equipment designed or adapted for a particular use, and which is intended or can be used in violation of this chapter, and includes, but is not limited to, computer hardware, software, and programs; electronic mail system; voice mail system; private branch exchange; or any other means of facilitating telecommunications service.

(9) "Telephone company" means any local exchange company, as defined in RCW 80.04.010. [1990 c 11 § 1.]

**9.26A.110 Fraud in obtaining telecommunications service—Penalty.** (1) Every person who, with intent to evade the provisions of any order or rule of the Washington utilities and transportation commission or of any tariff, price list, contract, or any other filing lawfully submitted to said commission by any telephone, telegraph, or telecommunications company, or with intent to defraud, obtains telephone, telegraph, or telecommunications service from any telephone, telegraph, or telecommunications company through: (a) The use of a false or fictitious name or telephone number; (b) the unauthorized use of the name or telephone number of another; (c) the physical or electronic installation of, rearrangement of, or tampering with any equipment, or use of a telecommunications device; (d) the commission of computer trespass; or (e) any other trick, deceit, or fraudulent device, shall be guilty of a misdemeanor. If the value of the telephone, telegraph, or telecommunications service that any person obtains in violation of this section during a period of ninety days exceeds:

(a) Fifty dollars in the aggregate, then such person shall be guilty of a gross misdemeanor;

(b) Two hundred fifty dollars in the aggregate, then such person shall be guilty of a class C felony.

However, for any act that constitutes a violation of both this subsection and subsection (2) of this section the provisions of subsection (2) of this section shall be exclusive.

(2) Every person who:

(a) Makes, possesses, sells, gives, or otherwise transfers to another a telecommunications device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or

(b) Sells, gives, or otherwise transfers to another plans or instructions for making or assembling a telecommunications device described in subparagraph (a) of this subsection with knowledge or reason to believe that the plans may be used to make or assemble such device shall be guilty of a felony. [1990 c 11 § 2; 1981 c 252 § 1; 1977 ex.s. c 42 § 1; 1974 ex.s. c 160 § 2; 1972 ex.s. c 75 § 1; 1955 c 114 § 1. Formerly RCW 9.45.240.]

*Injunctive relief for violations: RCW 7.40.230.*

**9.26A.120 Fraud in operating coin-box telephone or other receptacle.** Any person who shall knowingly and wilfully operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated, [any] coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee, or licensee of such machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a misdemeanor. [1929 c 184 § 1; RRS § 5842-1. Formerly RCW 9.45.180.]

**9.26A.130 Penalty for manufacture or sale of slugs to be used for coin.** Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any coin-box telephone or other receptacle, depository or contrivance, designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing or having cause to believe, that the same is intended for unlawful use, shall manufacture

for sale, or sell or give away any slug, device, or substance whatsoever intended or calculated to be placed or deposited in any coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a misdemeanor. [1929 c 184 § 2; RRS § 5842-2. Formerly RCW 9.45.190.]

**9.26A.900 Severability—1990 c 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 11 § 6.]

## Chapter 9.40

### FIRE, CRIMES RELATING TO

#### Sections

9.40.100 Injuring or tampering with fire alarm apparatus or equipment or fire fighting equipment—Sounding false alarm of fire—Penalties.

**9.40.100 Injuring or tampering with fire alarm apparatus or equipment or fire fighting equipment—Sounding false alarm of fire—Penalties.** (1) Any person who willfully and without cause tampers with, molests, injures or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire fighting equipment, or who willfully and without having reasonable grounds for believing a fire exists, sends, gives, transmits, or sounds any false alarm of fire, by shouting in a public place or by means of any public or private fire alarm system or signal, or by telephone, is guilty of a misdemeanor. This provision shall not prohibit the testing of fire alarm systems by persons authorized to do so, by a fire department or the director of community development, through the director of fire protection.

(2) Any person who willfully and without cause tampers with, molests, injures, or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire fighting equipment with the intent to commit arson, is guilty of a felony. [1990 c 177 § 1; 1986 c 266 § 80; 1967 c 204 § 1.]

**Severability—1990 c 177:** See RCW 18.160.902.

**Severability—1986 c 266:** See note following RCW 38.52.005.

## Chapter 9.41

### FIREARMS AND DANGEROUS WEAPONS

#### Sections

9.41.045 Possession by offenders.

9.41.070 Issue of licenses to carry—Fee—Revocation—Renewal.

**9.41.045 Possession by offenders.** As a sentence condition and requirement, offenders under the supervision of the department of corrections pursuant to chapter 9.94A RCW shall not own, use, or possess firearms or ammunition. In addition to any penalty imposed pursuant to RCW 9.41.040 when applicable, offenders found

to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions as provided for in RCW 9.94A-.200. Firearms or ammunition owned, used, or possessed by offenders may be confiscated by community corrections officers and turned over to the Washington state patrol for disposal as provided in RCW 9.41.098. [1991 c 221 § 1.]

**9.41.070 Issue of licenses to carry—Fee—Revocation—Renewal.** (1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such applicant's constitutional right to bear arms shall not be denied to him, unless he or she:

- (a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or
- (b) Is under twenty-one years of age; or
- (c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26-.09.060; or
- (d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or
- (e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or
- (f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his person.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years.

(2) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the license shall:

- (a) On the first forfeiture, be revoked by the department of licensing for one year;
- (b) On the second forfeiture, be revoked by the department of licensing for two years;
- (c) On the third or subsequent forfeiture, be revoked by the department of licensing for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license

application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's place of birth, whether the applicant is a United States citizen, and if not a citizen whether the applicant has declared the intent to become a citizen and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen. A person who makes a false statement regarding citizenship on the application is guilty of a misdemeanor. A person who is not a citizen of the United States, or has not declared his or her intention to become a citizen shall meet the additional requirements of RCW 9.41.170.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

(3) The fee for the original issuance of a four-year license shall be twenty-three dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

- (a) Four dollars shall be paid to the state general fund;
- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
- (d) Three dollars to the firearms range account in the general fund.

(4) The fee for the renewal of such license shall be fifteen dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

- (a) Four dollars shall be paid to the state general fund;
- (b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
- (c) Three dollars to the firearms range account in the general fund.

(5) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(6) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (4) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(7) Notwithstanding the requirements of subsections (1) through (6) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(8) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action. [1990 c 195 § 6. Prior: 1988 c 263 § 10; 1988 c 223 § 1; 1988 c 219 § 1; 1988 c 36 § 1; 1985 c 428 § 3; 1983 c 232 § 3; 1979 c 158 § 1; 1971 ex.s. c 302 § 2; 1961 c 124 § 6; 1935 c 172 § 7; RRS § 2516-7.]

**Severability**—1985 c 428: See note following RCW 9.41.290.

**Severability**—1983 c 232: See note following RCW 9.41.010.

**Severability**—1971 ex.s. c 302: See note following RCW 9.41.010.

## Chapter 9.45

### FRAUDS AND SWINDLES

#### Sections

9.45.180	Recodified as RCW 9.26A.120.
9.45.190	Recodified as RCW 9.26A.130.
9.45.240	Recodified as RCW 9.26A.110.

**9.45.180 Recodified as RCW 9.26A.120.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**9.45.190 Recodified as RCW 9.26A.130.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**9.45.240 Recodified as RCW 9.26A.110.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 9.46

### GAMBLING—1973 ACT

#### Sections

9.46.0213	"Bookmaking."
9.46.0265	"Player."
9.46.0315	Raffles—No license required, when.
9.46.0331	Amusement games authorized—Minimum rules.
9.46.100	Gambling revolving fund—Created—Receipts—Disbursements—Use.
9.46.110	Taxation of gambling activities—Limitations—Restrictions on punch boards and pull-tabs.
9.46.160	Conducting activity without license.
9.46.170	False or misleading entries or statements, refusal to produce records.
9.46.180	Causing person to violate chapter.
9.46.185	Causing person to violate rule or regulation.
9.46.190	Violations relating to fraud or deceit.
9.46.196	Defrauding or cheating other participant or operator—Causing another to do so.
9.46.220	Professional gambling in the first degree.
9.46.221	Professional gambling in the second degree.
9.46.222	Professional gambling in the third degree.
9.46.240	Gambling information, transmitting or receiving.

**9.46.0213 "Bookmaking."** "Bookmaking," as used in this chapter, means accepting bets, upon the outcome of future contingent events, as a business or in which the bettor is charged a fee or "vigorish" for the opportunity to place a bet. [1991 c 261 § 1; 1987 c 4 § 5. Formerly RCW 9.46.020(4).]

**9.46.0265 "Player."** "Player," as used in this chapter, means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants shall not be considered as rendering material assistance to the establishment, conduct or operation of the social game merely by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises for the game, or supplying cards or other equipment to be used in the games. A person who engages in "bookmaking" as defined in this chapter is not a "player." A person who pays a fee or "vigorish" enabling him or her to place a wager with a bookmaker, or pays a fee to participate in a card game, contest of chance, lottery, or gambling activity, is not a player. [1991 c 261 § 2; 1987 c 4 § 17. Formerly RCW 9.46.020(16).]

**9.46.0315 Raffles—No license required, when.** Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of this chapter, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle. The organization may provide unopened containers of beverages containing alcohol as raffle prizes if the appropriate permit has been obtained from the liquor control board: PROVIDED, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles. [1991 c 192 § 4; 1987 c 4 § 27. Formerly RCW 9.46.030(2).]

**9.46.0331 Amusement games authorized—Minimum rules.** The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize. The rules shall provide for at least the following:

(1) Persons other than bona fide charitable or bona fide nonprofit organizations shall conduct amusement games only after obtaining a special amusement game license from the commission.

(2) Amusement games may be conducted under such a license only as a part of, and upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city, or town; or

(c) A world's fair or similar exposition that is approved by the bureau of international expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operated for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides, theatrical productions, motion picture, and/or slide show presentations with food and drink service. The amusement park must

include at least five different mechanical, or aquatic rides, three additional activities, and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on revenue sharing set forth in RCW 9.46.120(2); or

(h) A location that possesses a valid license from the Washington state liquor [control] board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption and who offers family entertainment which includes at least three of the following activities: Amusement devices; theatrical productions; mechanical rides; motion pictures; and slide show presentations.

(3) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations. In no event may the licensee conduct any amusement games at any of the locations set out in subsection (2) of this section without first having obtained the written permission to do so from the person or organization owning the premises or an authorized agent thereof, and from the persons sponsoring the fair, exhibition, commercial exhibition, or festival, or from the city or town operating the civic center, in connection with which the games are to be operated.

(4) In no event may a licensee conduct any amusement games at the location described in subsection (2)(g) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from entry during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and providing for hours for the close of business at such location that are no later than 10:00 p.m. on Fridays and Saturdays and on all other days that are the same as those of the regional shopping center in which the licensee is located.

(5) In no event may a licensee conduct any amusement game at a location described in subsection (2)(i) or (j) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from playing licensed amusement games during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and prohibiting minors from playing the amusement games after 10:00

p.m. on any day. [1991 c 287 § 1; 1987 c 4 § 30. Formerly RCW 9.46.030(5).]

**9.46.100 Gambling revolving fund—Created—Receipts—Disbursements—Use.** There is hereby created the gambling revolving fund which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund.

The state treasurer shall transfer to the general fund one million dollars from the gambling revolving fund for the 1991–93 fiscal biennium. [1991 1st sp.s. c 16 § 917; 1985 c 405 § 505; 1977 ex.s. c 326 § 5; 1973 1st ex.s. c 218 § 10.]

**Severability—1991 1st sp.s. c 16:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 1st sp.s. c 16 § 926.]

**Effective date—1991 1st sp.s. c 16:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991 except for section 916, which shall take effect immediately." [1991 1st sp.s. c 16 § 927.]

**Severability—1985 c 405:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 405 § 510.]

**9.46.110 Taxation of gambling activities—Limitations—Restrictions on punch boards and pull-tabs.** The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized by this chapter within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated areas of such county: PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a fifty cent limit on a single chance

thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs must be on display within the immediate area of the premises wherein any such punch board or pull-tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud for the purposes of this chapter; and (4) when any person shall win over twenty dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: AND PROVIDED FURTHER, That taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross revenue received therefrom less the amount paid for or as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross revenue therefrom less the amount paid for as prizes: PROVIDED FURTHER, That no tax shall be imposed under the authority of this chapter on bingo or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in this chapter, which organization has no paid operating or management personnel and has gross income from bingo or amusement games, or a combination thereof, not exceeding five thousand dollars per year, less the amount paid for as prizes. No tax shall be imposed on the first ten thousand dollars of net proceeds from raffles conducted by any bona fide charitable or nonprofit organization as defined in this chapter. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts, nor shall taxation of social card games exceed twenty percent of the gross revenue from such games. [1991 c 161 § 1; 1987 c 4 § 39. Prior: 1985 c 468 § 2; 1985 c 172 § 1; 1981 c 139 § 8; 1977 ex.s. c 198 § 1; 1974 ex.s. c 155 § 8; 1974 ex.s. c 135 § 8; 1973 1st ex.s. c 218 § 11.]

**Severability—1981 c 139:** See note following RCW 9.46.070.

**Severability—1974 ex.s. c 155:** See note following RCW 9.46.010.

**9.46.160 Conducting activity without license.** Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section. [1991 c 261 § 3; 1975 1st ex.s. c 166 § 9; 1973 1st ex.s. c 218 § 16.]

**Severability—1975 1st ex.s. c 166:** See note following RCW 9.46.090.

**9.46.170 False or misleading entries or statements, refusal to produce records.** Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or wilfully fail to maintain or make any entry required to be maintained or made, or who wilfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 4; 1973 1st ex.s. c 218 § 17.]

**9.46.180 Causing person to violate chapter.** Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of this chapter shall be guilty of a class B felony subject to the penalty in RCW 9A.20.021. [1991 c 261 § 5; 1977 ex.s. c 326 § 8; 1973 1st ex.s. c 218 § 18.]

**9.46.185 Causing person to violate rule or regulation.** Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule or regulation adopted pursuant to this chapter shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 6; 1977 ex.s. c 326 § 9.]

**9.46.190 Violations relating to fraud or deceit.** Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(1) Employ any device, scheme, or artifice to defraud; or

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 7; 1977 ex.s. c 326 § 10; 1973 1st ex.s. c 218 § 19.]

**9.46.196 Defrauding or cheating other participant or operator—Causing another to do so.** No person participating in a gambling activity shall in the course of such participation, directly or indirectly:

(1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;

(2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;

(3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent

of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or

(4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1) through (3) of this section.

Any person violating this section shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 8; 1977 ex.s. c 326 § 13.]

**9.46.220 Professional gambling in the first degree.**

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) While engaging in professional gambling acts in concert with or conspires with five or more people;

(b) Accepts wagers exceeding five thousand dollars during any calendar month on future contingent events; or

(c) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 10; 1987 c 4 § 42; 1973 1st ex.s. c 218 § 22.]

**9.46.221 Professional gambling in the second degree.**

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) While engaging in professional gambling acts in concert with or conspires with less than five people;

(b) Accepts wagers exceeding two thousand dollars during any calendar month on future contingent events;

(c) Maintains a "gambling premises" as defined in this chapter; or

(d) Maintains gambling records as defined in \*RCW 9.46.020.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. [1991 c 261 § 11.]

\*Reviser's note: RCW 9.46.020 was repealed by 1987 c 4 § 47; "gambling record" is now defined in RCW 9.46.0253.

**9.46.222 Professional gambling in the third degree.**

(1) A person is guilty of professional gambling in the third degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter; and

(a) His or her conduct does not constitute first or second degree professional gambling;

(b) Operates any of the unlicensed gambling activities authorized by this chapter in a manner other than as prescribed by this chapter; or

(c) Is directly employed in but not managing or directing any gambling operation.

(2) This section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and the rules adopted pursuant to this chapter.

(3) Professional gambling in the third degree is a gross misdemeanor subject to the penalty established in RCW 9A.20.021. [1991 c 261 § 12.]

**9.46.240 Gambling information, transmitting or receiving.** Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021: PROVIDED, HOWEVER, That this section shall not apply to such information transmitted or received or equipment installed or maintained relating to activities authorized by this chapter or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. [1991 c 261 § 9; 1987 c 4 § 44; 1973 1st ex.s. c 218 § 24.]

**Chapter 9.68A****SEXUAL EXPLOITATION OF CHILDREN**

(Formerly: Child pornography)

## Sections

9.68A.070 Possession of depictions of minor engaged in sexually explicit conduct.

**9.68A.070 Possession of depictions of minor engaged in sexually explicit conduct.** A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a class C felony. [1990 c 155 § 1; 1989 c 32 § 5; 1984 c 262 § 6.]

**Effective date—**1990 c 155 § 1, 2: "Sections 1 and 2 of this act shall be effective July 1, 1990." [1990 c 155 § 3.]

**Chapter 9.73****PRIVACY, VIOLATING RIGHT OF**

## Sections

9.73.070 Persons and activities excepted from chapter (as amended by 1991 c 312).

9.73.070 Persons and activities excepted from chapter (as amended by 1991 c 329).

9.73.220 Judicial authorizations—Availability of judge required.

**9.73.070 Persons and activities excepted from chapter (as amended by 1991 c 312).** (1) The provisions of this chapter shall not apply to any activity in connection with services provided by a common carrier pursuant to its tariffs on file with the Washington utilities and transportation commission or the Federal Communication Commission and any activity of any officer, agent or employee of a common carrier who performs any act otherwise prohibited by this law in the construction, maintenance, repair and operations of the common carrier's communications services, facilities, or equipment or incident to the use of such services, facilities or equipment. Common carrier as used in this section means any person engaged as a common carrier or public service company for hire in intrastate, interstate or foreign communication by wire or radio or in intrastate, interstate or foreign radio transmission of energy.

(2) The provisions of this chapter shall not apply to any common carrier automatic number, caller, or location identification service, including an enhanced 911 emergency service, that has been approved by the Washington utilities and transportation commission. [1991 c 312 § 1; 1967 ex.s. c 93 § 5.]

**9.73.070 Persons and activities excepted from chapter (as amended by 1991 c 329).** ((The provisions of)) (1) This chapter shall not apply to any activity in connection with services provided by a common carrier pursuant to its tariffs on file with the Washington utilities and transportation commission or the Federal Communication Commission and any activity of any officer, agent or employee of a common carrier who performs any act otherwise prohibited by this law in the construction, maintenance, repair and operations of the common carrier's communications services, facilities, or equipment or incident to the use of such services, facilities or equipment. Common carrier as used in this section means any person engaged as a common carrier or public service company for hire in intrastate, interstate or foreign communication by wire or radio or in intrastate, interstate or foreign radio transmission of energy.

(2) This chapter shall not apply to a 911 or enhanced 911 emergency service as defined in RCW 82.14B.020, for purposes of aiding public health or public safety agencies to respond to calls placed for emergency assistance. [1991 c 329 § 8; 1967 ex.s. c 93 § 5.]

**Reviser's note:** RCW 9.73.070 was amended twice during the 1991 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Severability—**1967 ex.s. c 93: See note following RCW 9.73.030.

**9.73.220 Judicial authorizations—Availability of judge required.** In each superior court judicial district in a county with a population of two hundred ten thousand or more there shall be available twenty-four hours a day at least one superior court or district court judge or magistrate designated to receive telephonic requests for authorizations that may be issued pursuant to this chapter. The presiding judge of each such superior court in conjunction with the district court judges in that superior court judicial district shall establish a coordinated schedule of rotation for all of the superior and district court judges and magistrates in the superior court judicial district for purposes of ensuring the availability of at least one judge or magistrate at all times. During the period that each judge or magistrate is designated, he or she shall be equipped with an electronic paging device when not present at his or her usual telephone. It shall be the designated judge's or magistrate's responsibility to ensure that all attempts to reach him or her for purposes of requesting authorization pursuant to this chapter are forwarded to the electronic page number when the judge or magistrate leaves the place where he or she

would normally receive such calls. [1991 c 363 § 9; 1989 c 271 § 203.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Severability**—1989 c 271: See note following RCW 9.94A.310.

**Chapter 9.92  
PUNISHMENT**

Sections

9.92.151 Early release for good behavior.

**9.92.151 Early release for good behavior.** The sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction. The earned early release time shall be for good behavior and good performance as determined by the correctional agency having jurisdiction. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case may the aggregate earned early release time exceed one-third of the total sentence. [1990 c 3 § 201; 1989 c 248 § 1.]

**Index, part headings not law**—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

**Application**—1989 c 248: "This act applies only to sentences imposed for crimes committed on or after July 1, 1989." [1989 c 248 § 5.] For codification of "this act" [1989 c 248], see Codification Tables, Volume 0.

**Chapter 9.94A  
SENTENCING REFORM ACT OF 1981**

Sections

9.94A.030 Definitions.  
 9.94A.120 Sentences.  
 9.94A.1241 Sexual offender sentencing alternatives—Felonies related to pornography—Study.  
 9.94A.127 Sexual motivation special allegation—Procedures.  
 9.94A.135 Offender work crews.  
 9.94A.145 Legal financial obligations.  
 9.94A.150 Leaving correctional facility or release before expiration of sentence prohibited—Exceptions.  
 9.94A.151 Sex offenders—Release from total confinement—Notification of prosecutor.  
 9.94A.152 Sex offenders—Release of information—Immunity.  
 9.94A.153 Sex offenders—Release of information.  
 9.94A.154 Drug offenders—Notice of release or escape.  
 9.94A.155 Prisoner escape, release, or furlough—Notification procedures.  
 9.94A.180 Term of partial confinement, work release, home detention.  
 9.94A.190 Terms of more than one year or less than one year—Where served—Reimbursement of costs.

9.94A.200005 "Earnings," "disposable earnings," and "obligee" defined.  
 9.94A.200010 Legal financial obligation—Notice of payroll deduction—Issuance and content.  
 9.94A.200015 Legal financial obligations—Payroll deductions—Maximum amounts withheld, apportionment.  
 9.94A.200020 Legal financial obligations—Notice of payroll deduction—Employer or entity rights and responsibilities.  
 9.94A.200025 Motion to quash, modify, or terminate payroll deduction—Grounds for relief.  
 9.94A.200030 Legal financial obligations—Order to withhold and deliver—Issuance and contents.  
 9.94A.200035 Legal financial obligations—Order to withhold and deliver—Duties and rights of person or entity served.  
 9.94A.200040 Legal financial obligations—Financial institutions—Service on main office or branch, effect—Collection actions against community bank account, court hearing.  
 9.94A.200045 Legal financial obligations—Notice of debt—Service or mailing—Contents—Action on, when.  
 9.94A.200050 Legal financial obligations—Exemption from notice of payroll deduction or order to withhold and deliver.  
 9.94A.270 Offender supervision assessments.  
 9.94A.310 Table 1—Sentencing grid.  
 9.94A.320 Table 2—Crimes included within each seriousness level.  
 9.94A.350 Offense seriousness level.  
 9.94A.360 Offender score.  
 9.94A.390 Departures from the guidelines.  
 9.94A.400 Consecutive or concurrent sentences.

**9.94A.030 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or inter-local drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Department" means the department of corrections.

(14) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual

hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(15) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(16) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(17) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to comply with any limitations on the inmate's movements while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(18) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(19) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(20)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug or the

selling for profit [of] any controlled substance or counterfeit substance classified in schedule I, RCW 69.50-.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses.

(21) "Nonviolent offense" means an offense which is not a violent offense.

(22) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(23) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(24) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(25) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(26) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(27) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony

classified as a serious violent offense under (a) of this subsection.

(28) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(29) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(30) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(31) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(32) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(33) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(34) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall be performed on public property or on private property owned or operated by nonprofit entities, except that, for emergency purposes only, work crews may perform snow removal on any private property. The civic improvement tasks shall have minimal negative impact on existing private industries or

the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (29) of this section are not eligible for the work crew program.

(35) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(36) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty-one days in a work release program, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (ii) abiding by the rules of the home detention program, and (iii) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where

the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution. [1991 c 348 § 4; 1991 c 290 § 3; 1991 c 181 § 1; 1991 c 32 § 1; 1990 c 3 § 602. Prior: 1989 c 394 § 1; 1989 c 252 § 2; prior: 1988 c 157 § 1; 1988 c 154 § 2; 1988 c 153 § 1; 1988 c 145 § 11; prior: 1987 c 458 § 1; 1987 c 456 § 1; 1987 c 187 § 3; 1986 c 257 § 17; 1985 c 346 § 5; 1984 c 209 § 3; 1983 c 164 § 9; 1983 c 163 § 1; 1982 c 192 § 1; 1981 c 137 § 3.]

**Reviser's note:** This section was amended by 1991 c 181 § 1, 1991 c 290 § 3, and by 1991 c 348 § 4, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1991 c 348:** See note following RCW 46.61.520.

**Effective date—Application—1990 c 3 §§ 601–605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Purpose—1989 c 252:** "The purpose of this act is to create a system that: (1) Assists the courts in sentencing felony offenders regarding the offenders' legal financial obligations; (2) holds offenders accountable to victims, counties, cities, the state, municipalities, and society for the assessed costs associated with their crimes; and (3) provides remedies for an individual or other entities to recoup or at least defray a portion of the loss associated with the costs of felonious behavior." [1989 c 252 § 1.]

**Prospective application—1989 c 252:** "Except for sections 18, 22, 23, and 24 of this act, this act applies prospectively only and not retroactively. It applies only to offenses committed on or after the effective date of this act." [1989 c 252 § 27.]

**Effective dates—1989 c 252:** "(1) Sections 1 through 17, 19 through 21, 25, 26, and 28 of this act shall take effect July 1, 1990 unless otherwise directed by law.

(2) Sections 18, 22, 23, and 24 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 252 § 30.]

**Severability—1989 c 252:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 252 § 31.]

The above four annotations apply to 1989 c 252. For codification of that act, see Codification Tables, Volume 0.

**Application—1988 c 157:** "This act applies to crimes committed after July 1, 1988." [1988 c 157 § 7.]

**Effective date—1988 c 153:** "This act shall take effect July 1, 1988." [1988 c 153 § 16.]

**Implementation—1988 c 153:** "The department of corrections shall report to the legislature on its plans for implementation of this act prior to January 10, 1989. The report shall address: (1) The classification system used to determine the supervision level; and (2) the contact standards for monitoring offenders. This section shall expire February 1, 1989." [1988 c 153 § 14.]

**Application of increased sanctions—1988 c 153:** "Increased sanctions authorized by this act are applicable only to those persons committing offenses after July 1, 1988." [1988 c 153 § 15.]

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Severability—1987 c 458:** See note following RCW 48.21.160.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** "Sections 17 through 35 of this act shall take effect July 1, 1986." [1986 c 257 § 38.]

**Effective dates—1984 c 209:** See note following RCW 9.92.150.

**Effective date—1983 c 163:** See note following RCW 9.94A.120.

**9.94A.120 Sentences.** When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum five-year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

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

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

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

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(A) Frequency and type of contact between offender and therapist;

(B) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

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

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

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision

and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) After July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender is convicted of any felony sex offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

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

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

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (c) does not apply to any crime committed after July 1, 1990.

(d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(8)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree,

any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; and

(v) The offender shall pay supervision fees as determined by the department of corrections.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(vi) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(10) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community

corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(13) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(14) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(15) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(16) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(17) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(18) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(19) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations. [1991 c 221 § 2; 1991 c 181 § 3; 1991 c 104 § 3; 1990 c 3 § 705; 1989 c 252 § 4. Prior: 1988 c 154 § 3; 1988 c 153 § 2; 1988 c 143 § 21; prior: 1987 c 456 § 2; 1987 c 402 § 1; prior: 1986 c 301 § 4; 1986 c 301 § 3; 1986 c 257 § 20; 1984 c 209 § 6; 1983 c 163 § 2; 1982 c 192 § 4; 1981 c 137 § 12.]

**Reviser's note:** This section was amended by 1991 c 104 § 3, 1991 c 181 § 3, and by 1991 c 221 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—Implementation—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Applicability—1988 c 143 §§ 21–24:** "Increased sanctions authorized by sections 21 through 24 of this act are applicable only to those persons committing offenses after March 21, 1988." [1988 c 143 § 25.] Sections 21, 23, and 24 were amendments to RCW 9.94A.120, 9.94A.383, and 9.94A.400, respectively. Section 22, an amendment to RCW 9.94A.170, was vetoed by the governor.

**Effective date—1987 c 402:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 402 § 3.]

**Effective date—1986 c 301 § 4:** "Section 4 of this act shall take effect July 1, 1987." [1986 c 301 § 8.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1983 c 163:** "Sections 1 through 5 of this act shall take effect on July 1, 1984." [1983 c 163 § 7.]

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.1241 Sexual offender sentencing alternatives—Felonies related to pornography—Study.** The blue ribbon panel on special sexual offender sentencing alternatives, created in 1989 under RCW 9.94A.124, shall consider whether offenders convicted of an offense under RCW 9.68A.070 or another felony related to pornography, should be eligible for sexual offender treatment under RCW 9.94A.120(7)(b) as a method of preventing future acts of sexual violence by some of these individuals. The panel shall include its recommendation on this topic in its September 1, 1991, report to the legislature. [1990 c 155 § 2.]

**Effective date—1990 c 155 §§ 1, 2:** See note following RCW 9.68A.070.

**9.94A.127 Sexual motivation special allegation—Procedures.** (1) The prosecuting attorney shall file a special allegation of sexual motivation in every criminal case other than sex offenses as defined in RCW 9.94A.030(29) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective factfinder.

(2) In a criminal case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This

finding shall not be applied to sex offenses as defined in RCW 9.94A.030(29) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful. [1990 c 3 § 601.]

**Effective date—Application—1990 c 3 §§ 601–605:** "(1) Sections 601 through 605 of this act, for purposes of sentencing adult or juvenile offenders, shall take effect July 1, 1990, and shall apply to crimes or offenses committed on or after July 1, 1990.

(2) For purposes of defining a "sexually violent offense" pursuant to section 1002(4) of this act, sections 601 through 605 of this act shall take effect July 1, 1990, and shall apply to crimes committed on, before, or after July 1, 1990." [1990 c 3 § 606.] "Sections 601 through 605 of this act" consist of the enactment of RCW 9.94A.127 and 13.40.135 and the 1990 c 3 amendments to RCW 9.94A.030, 9.94A.390, and 13.40.150. Section 1002 of this act consists of the enactment of RCW 71.09.020.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**9.94A.135 Offender work crews.** Participation in a work crew is conditioned upon the offender's acceptance into the program, abstinence from alcohol and controlled substances as demonstrated by urinalysis and breathalyzer monitoring, with the cost of monitoring to be paid by the offender, unless indigent; and upon compliance with the rules of the program, which rules shall include the requirements that the offender work to the best of his or her abilities and that he or she provide the program with accurate, verified residence information. Work crew may be imposed simultaneously with electronic home detention.

Where work crew is imposed as part of a sentence of nine months or more, the offender must serve a minimum of thirty days of total confinement before being eligible for work crew.

An offender who has successfully completed four weeks of work crew at thirty–five hours per week shall thereafter receive credit toward the work crew sentence for hours worked at approved, verified employment. Such employment credit may be earned for up to twenty–four hours actual employment per week provided, however, that every such offender shall continue active participation in work crews projects according to a schedule approved by a work crew supervisor until the work crew sentence has been served.

The hours served as part of a work crew sentence may include substance abuse counseling and/or job skills training.

The civic improvement tasks performed by offenders on work crew shall be unskilled labor for the benefit of the community as determined by the head of the county executive branch or his or her designee. Civic improvement tasks shall not be done on private property unless it is owned or operated by a nonprofit entity, except that, for emergency purposes only, work crews may perform snow removal on any private property. The civic improvement tasks shall have minimal negative impact on

existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. In case any dispute arises as to a civic improvement task having more than minimum negative impact on existing private industries or labor force in the county where their service or labor is performed, the matter shall be referred by an interested party, as defined in RCW 39.12.010(4), for arbitration to the director of the department of labor and industries of the state.

Whenever an offender receives credit against a work crew sentence for hours of approved, verified employment, the offender shall pay to the department administering the program the monthly assessment of an amount not less than ten dollars per month nor more than fifty dollars per month. This assessment shall be considered payment of the costs of providing the work crew program to an offender. The court may exempt a person from the payment of all or any part of the assessment based upon any of the following factors:

(1) The offender has diligently attempted but has been unable to obtain employment that provided the offender sufficient income to make such payment.

(2) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(3) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.

(4) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship.

(5) Other extenuating circumstances as determined by the court. [1991 c 181 § 2.]

**9.94A.145 Legal financial obligations.** (1) Whenever a person is convicted of a felony, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount. Upon receipt of an offender's monthly payment, after restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per

day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department of corrections.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be immediately issued. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) All legal financial obligations that are ordered as a result of a conviction for a felony, may also be enforced in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. These obligations may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period is longer. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to truthfully and honestly respond to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring any and all documents as requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to

reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. Also, during the period of supervision, the offender may be required at the request of the department to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to truthfully and honestly respond to all questions concerning earning capabilities and the location and nature of all property or financial assets. Also, the offender is required to bring any and all documents as requested by the department in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department shall for any period of supervision be authorized to collect the legal financial obligation from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purposes of disbursements. The department is authorized to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.2001.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties as provided in RCW 9.94A-.200 for noncompliance.

(11) The county clerk shall provide the department with individualized monthly billings for each offender with an unsatisfied legal financial obligation and shall provide the department with notice of payments by such offenders no less frequently than weekly. [1991 c 93 § 2; 1989 c 252 § 3.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**9.94A.150 Leaving correctional facility or release before expiration of sentence prohibited—Exceptions.** No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department, may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned early release time shall be for good behavior and good performance, as determined by the correctional agency

having jurisdiction. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department of corrections, the county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned early release time. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case shall the aggregate earned early release time exceed one-third of the total sentence;

(2) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned early release time pursuant to subsection (1) of this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community;

(6) The governor may pardon any offender;

(7) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(8) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160. [1990 c 3 § 202; 1989 c 248 § 2. Prior: 1988 c 153 § 3; 1988 c 3 § 1; 1984 c 209 § 8; 1982 c 192 § 6; 1981 c 137 § 15.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1989 c 248:** See note following RCW 9.92.151.

**Effective date—Implementation—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.151 Sex offenders—Release from total confinement—Notification of prosecutor.** Three months before the anticipated release from total confinement of a person convicted of a sex offense as defined in RCW

9.94A.030 that was committed between June 30, 1984, and July 1, 1988, the department shall notify in writing the prosecuting attorney of the county where the person was convicted. The department shall inform the prosecutor of the following:

- (1) The person's name, identifying factors, anticipated future residence, and offense history;
- (2) A brief narrative describing the person's conduct during confinement and any treatment received; and
- (3) Whether the department recommends that a civil commitment petition be filed under RCW 71.09.030.

The department, its employees, and officials shall be immune from liability for any good-faith conduct under this section. [1990 c 3 § 122.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**9.94A.152 Sex offenders—Release of information—Immunity.** The department, its employees, and officials, shall be immune from liability for release of information regarding sex offenders that complies with RCW 4.24.550. [1990 c 3 § 123.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**9.94A.153 Sex offenders—Release of information.** In addition to any other information required to be released under other provisions of this chapter, the department may, pursuant to RCW 4.24.550, release information concerning convicted sex offenders confined to the department of corrections. [1990 c 3 § 124.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**9.94A.154 Drug offenders—Notice of release or escape.** (1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community placement, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

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

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

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department

shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401 (a)(1)(i) or (b)(1)(i). [1991 c 147 § 1.]

**9.94A.155 Prisoner escape, release, or furlough—Notification procedures.** (1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community placement, work release placement, furlough, or escape about a specific inmate convicted of a violent offense or a sex offense as defined by RCW 9.94A.030, to all of the following:

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

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

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

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

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

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

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

(3) If an inmate convicted of a violent offense or a sex offense as defined by RCW 9.94A.030 escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the

crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

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

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

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

(7) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section. [1990 c 3 § 121; 1989 c 30 § 1; 1985 c 346 § 1.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**9.94A.180 Term of partial confinement, work release, home detention.** (1) An offender sentenced to a term of partial confinement shall be confined in the facility for at least eight hours per day or, if serving a work crew sentence shall comply with the conditions of that sentence as set forth in RCW 9.94A.030(23) and 9.94A.135. The offender shall be required as a condition of partial confinement to report to the facility at designated times. An offender may be required to comply with crime-related prohibitions during the period of partial confinement.

(2) An offender in a county jail ordered to serve all or part of a term of less than one year in work release, work crew, or a program of home detention who violates the rules of the work release facility, work crew, or program of home detention or fails to remain employed or enrolled in school may be transferred to the appropriate county detention facility without further court order but shall, upon request, be notified of the right to request an administrative hearing on the issue of whether or not the offender failed to comply with the order and relevant conditions. Pending such hearing, or in the absence of a request for the hearing, the offender shall serve the remainder of the term of confinement as total confinement. This subsection shall not affect transfer or placement of offenders committed to the state department of corrections. [1991 c 181 § 4; 1988 c 154 § 4; 1987 c 456 § 3; 1981 c 137 § 18.]

**Effective date—1981 c 137: See RCW 9.94A.905.**

**9.94A.190 Terms of more than one year or less than one year—Where served—Reimbursement of costs.**

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. Except as provided for in subsection (3) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided for in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department of corrections for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.400. [1991 c 181 § 5; 1988 c 154 § 5; 1986 c 257 § 21; 1984 c 209 § 10; 1981 c 137 § 19.]

**Severability—1986 c 257: See note following RCW 9A.56.010.**

**Effective date—1986 c 257 §§ 17–35: See note following RCW 9.94A.030.**

**Effective dates—1984 c 209: See note following RCW 9.94A.030.**

**Effective date—1981 c 137: See RCW 9.94A.905.**

**9.94A.200005 "Earnings," "disposable earnings," and "obligee" defined.** As used in this chapter, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, hours, or otherwise, and notwithstanding any other provision of law making such payments exempt from garnishment, attachment, or other process to satisfy court-ordered legal financial obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type. Earnings shall specifically include all gain derived from capital, from labor, or from both, not including profit gained through sale or conversion of capital assets. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld. The term "obligee" means the department, party, or entity to whom the legal financial obligation is owed, or the department, party, or entity to whom the

right to receive or collect support has been assigned. [1991 c 93 § 1.]

**Retroactive application**—1991 c 93: "The provisions of this act are retroactive and apply to any actions commenced but not final before May 9, 1991." [1991 c 93 § 15.]

**Captions not law**—1991 c 93: "Captions as used in this act constitute no part of the law." [1991 c 93 § 12.]

**9.94A.200010 Legal financial obligation—Notice of payroll deduction—Issuance and content.** (1) The department may issue a notice of payroll deduction in a criminal action if:

(a) The court at sentencing orders its immediate issuance; or

(b) The offender is more than thirty days past due in monthly payments in an amount equal to or greater than the amount payable for one month, provided:

(i) The judgment and sentence or subsequent order to pay contains a statement that a notice of payroll deduction may be issued without further notice to the offender; or

(ii) The department has served a notice on the offender stating such requirements and authorization. Service of such notice shall be made by personal service or any form of mail requiring a return receipt.

(2) The notice of payroll deduction is to be in writing and include:

(a) The name, social security number, and identifying court case number of the offender/employee;

(b) The amount to be deducted from the offender/employee's disposable earnings each month, or alternative amounts and frequencies as may be necessary to facilitate processing of the payroll deduction by the employer;

(c) A statement that the total amount withheld on all payroll deduction notices for payment of court-ordered legal financial obligations combined shall not exceed twenty-five percent of the offender/employee's disposable earnings; and

(d) The address to which the payments are to be mailed or delivered.

(3) An informational copy of the notice of payroll deduction shall be mailed to the offender's last known address by regular mail or shall be personally served.

(4) Neither the department nor any agents of the department shall be held liable for actions taken under RCW 9.94A.145 and 9.94A.200005 through 9.94A.200050. [1991 c 93 § 3.]

**Retroactive application**—**Captions not law**—1991 c 93: See notes following RCW 9.94A.200005.

**9.94A.200015 Legal financial obligations—Payroll deductions—Maximum amounts withheld, apportionment.** (1) The total amount to be withheld from the offender/employee's earnings each month, or from each earnings disbursement, shall not exceed twenty-five percent of the disposable earnings of the offender.

(2) If the offender is subject to two or more notices of payroll deduction for payment of a court-ordered legal financial obligation from different obligees, the employer or entity shall, if the nonexempt portion of the offender's

earnings is not sufficient to respond fully to all notices of payroll deduction, apportion the offender's nonexempt disposable earnings between or among the various obligees equally. [1991 c 93 § 4.]

**Retroactive application**—**Captions not law**—1991 c 93: See notes following RCW 9.94A.200005.

**9.94A.200020 Legal financial obligations—Notice of payroll deduction—Employer or entity rights and responsibilities.** (1) An employer or entity upon whom a notice of payroll deduction is served, shall make an answer to the department within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the offender is employed by or receives earnings from the employer or entity, whether the employer or entity anticipates paying earnings, and the amount of earnings. If the offender is no longer employed, or receiving earnings from the employer or entity, the answer shall state the present employer or entity's name and address, if known.

(2) Service of a notice of payroll deduction upon an employer or entity requires an employer or entity to immediately make a mandatory payroll deduction from the offender/employee's unpaid disposable earnings. The employer or entity shall thereafter at each pay period deduct the amount stated in the notice divided by the number of pay periods per month. The employer or entity must remit the proper amounts to the appropriate clerk of the court on each date the offender/employee is due to be paid.

(3) The employer or entity may combine amounts withheld from the earnings of more than one employee in a single payment to the clerk of the court, listing separately the amount of the payment that is attributable to each individual employee.

(4) The employer or entity may deduct a processing fee from the remainder of the employee's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 9.94A.200050. The processing fee may not exceed:

(a) Ten dollars for the first disbursement made by the employer to the clerk of the court; and

(b) One dollar for each subsequent disbursement made under the notice of payroll deduction.

(5) The notice of payroll deduction shall remain in effect until released by the department or the court enters an order terminating the notice.

(6) An employer shall be liable to the obligee for the amount of court-ordered legal financial obligation monies that should have been withheld from the offender/employee's earnings, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice; or

(b) Fails or refuses to submit an answer to the notice of payroll deduction after being served. In such cases, liability may be established in superior court. Awards in superior court shall include costs, interest under RCW

19.52.020 and 4.56.110, reasonable attorney fees, and staff costs as part of the award.

(7) No employer who complies with a notice of payroll deduction under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discipline or discharge an employee or refuse to hire a person by reason of an action authorized in this chapter. If an employer disciplines or discharges an employee or refuses to hire a person in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual. [1991 c 93 § 5.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200025 Motion to quash, modify, or terminate payroll deduction—Grounds for relief.** (1) The offender subject to a payroll deduction under this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction. The court may grant relief if:

(a) It is demonstrated that the payroll deduction causes extreme hardship or substantial injustice; or

(b) In cases where the court did not immediately order the issuance of a notice of payroll deduction at sentencing, that a court-ordered legal financial obligation payment was not more than thirty days past due in an amount equal to or greater than the amount payable for one month.

(2) Satisfactions by the offender of all past-due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction. If a notice of payroll deduction has been in operation for twelve consecutive months and the offender's payment towards a court-ordered legal financial obligation is current, upon motion of the offender, the court may order the department to terminate the payroll deduction, unless the department can show good cause as to why the notice of payroll deduction should remain in effect. [1991 c 93 § 6.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200030 Legal financial obligations—Order to withhold and deliver—Issuance and contents.** (1) The department may issue to any person or entity an order to withhold and deliver property of any kind, including but not restricted to, earnings that are due, owing, or belonging to the offender, if the department has reason to believe that there is in the possession of such person or entity, property that is due, owing, or belonging to the offender. Such order to withhold and deliver may be issued when a court-ordered legal financial obligation payment is past due:

(a) If an offender's judgment and sentence or a subsequent order to pay includes a statement that other income-withholding action under this chapter may be taken without further notice to the offender.

(b) If a judgment and sentence or a subsequent order to pay does not include the statement that other income-withholding action under this chapter may be taken without further notice to the offender but the department has served a notice on the offender stating such requirements and authorizations. The service shall have been made by personal service or any form of mail requiring a return receipt.

(2) The order to withhold and deliver shall:

(a) Include the amount of the court-ordered legal financial obligation;

(b) Contain a summary of moneys that may be exempt from the order to withhold and deliver and a summary of the civil liability upon failure to comply with the order; and

(c) Be served by personal service or by any form of mail requiring a return receipt.

(3) The department shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by any form of mail requiring a return receipt, a copy of the order to withhold and deliver to the offender at the offender's last known post office address, or, in the alternative, a copy of the order shall be personally served on the offender on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with an explanation of the right to petition for judicial review. If the copy is not mailed or served as this section provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the offender promptly made and supported by affidavit showing that the offender has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver. [1991 c 93 § 7.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200035 Legal financial obligations—Order to withhold and deliver—Duties and rights of person or entity served.** (1) A person or entity upon whom service has been made is hereby required to:

(a) Answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the order; and

(b) Provide further and additional answers when requested by the department.

(2) Any person or entity in possession of any property that may be subject to the order to withhold and deliver shall:

(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver;

(ii) Deliver the property to the appropriate clerk of the court as soon as the twenty-day answer period expires;

(iii) Continue to withhold earnings payable to the offender at each succeeding disbursement interval and deliver amounts withheld from earnings to the appropriate clerk of the court within ten days of the date earnings are payable to the offender;

(iv) Inform the department of the date the amounts were withheld as requested under this section; or

(b) Furnish the appropriate clerk of the court a good and sufficient bond, satisfactory to the clerk, conditioned upon final determination of liability.

(3) Where money is due and owing under any contract of employment, expressed or implied, or is held by any person or entity subject to withdrawal by the offender, the money shall be delivered by remittance payable to the order of the appropriate clerk of the court.

(4) Delivery to the appropriate clerk of the court of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.

(5) The person or entity required to withhold and deliver the earnings of a debtor under this action may deduct a processing fee from the remainder of the offender's earnings, even if the remainder would otherwise be exempt under RCW 9.94A.200050. The processing fee may not exceed:

(a) Ten dollars for the first disbursement to the appropriate clerk of the court; and

(b) One dollar for each subsequent disbursement.

(6) A person or entity shall be liable to the obligee in an amount equal to one hundred percent of the value of the court-ordered legal financial obligation that is the basis of the order to withhold and deliver, or the amount that should have been withheld, whichever amount is less, together with costs, interest, and reasonable attorneys' fees if that person or entity fails or refuses to deliver property under the order.

The department is authorized to issue a notice of debt pursuant to and to take appropriate action to collect the debt under this chapter if a judgment has been entered as the result of an action by the court against a person or entity based on a violation of this section.

(7) Persons or entities delivering money or property to the appropriate clerk of the court under this chapter shall not be held liable for wrongful delivery.

(8) Persons or entities withholding money or property under this chapter shall not be held liable for wrongful withholding. [1991 c 93 § 8.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200040 Legal financial obligations—Financial institutions—Service on main office or branch, effect—Collection actions against community bank account, court hearing.** An order to withhold and deliver or any other income-withholding action authorized by this chapter may be served on the main office of a bank, savings and loan association, or credit union or on a branch office of the financial institution. Service on the main office shall be effective to attach the deposits of an offender in the financial institution and compensation payable for personal services due the offender from the

financial institution. Service on a branch office shall be effective to attach the deposits, accounts, credits, or other personal property of the offender, excluding compensation payable for personal services, in the possession or control of the particular branch served.

Notwithstanding any other provision of RCW 9.94A-.145 and 9.94A.200005 through 9.94A.200050, if the department initiates collection action against a joint bank account, with or without the right of survivorship, or any other funds which are subject to the community property laws of this state, notice shall be given to all affected parties that the account or funds are subject to potential withholding. Such notice shall be by first class mail, return receipt required, or by personal service and be given at least twenty calendar days before withholding is made. Upon receipt of such notice, the nonobligated person shall have ten calendar days to file a petition with the department contesting the withholding of his or her interest in the account or funds. The department shall provide notice of the right of the filing of the petition with the notice provided in this paragraph. If the petition is not filed within the period provided for herein, the department is authorized to proceed with the collection action. [1991 c 93 § 9.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200045 Legal financial obligations—Notice of debt—Service or mailing—Contents—Action on, when.** (1) The department may issue a notice of debt in order to enforce and collect a court-ordered legal financial obligation debt through either a notice of payroll deduction or an order to withhold and deliver.

(2) The notice of debt may be personally served upon the offender or be mailed to the offender at his or her last known address by any form of mail requiring a return receipt, demanding payment within twenty days of the date of receipt.

(3) The notice of debt shall include:

(a) A statement of the total court-ordered legal financial obligation and the amount to be paid each month.

(b) A statement that earnings are subject to a notice of payroll deduction.

(c) A statement that earnings or property, or both, are subject to an order to withhold and deliver.

(d) A statement that the net proceeds will be applied to the satisfaction of the court-ordered legal financial obligation.

(4) Action to collect a court-ordered legal financial obligation by notice of payroll deduction or an order to withhold and deliver shall be lawful after twenty days from the date of service upon the offender or twenty days from the receipt or refusal by the offender of the notice of debt.

(5) The notice of debt will take effect only if the offender's monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owned.

(6) The department shall not be required to issue or serve the notice of debt in order to enforce and collect a court-ordered legal financial obligation debt through either a notice of payroll deduction or an order to withhold and deliver if either the offender's judgment and sentence or a subsequent order to pay includes a statement that income-withholding action under this chapter may be taken without further notice to the offender. [1991 c 93 § 10.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.200050 Legal financial obligations—Exemption from notice of payroll deduction or order to withhold and deliver.** Whenever a notice of payroll deduction or order to withhold and deliver is served upon a person or entity asserting a court-ordered legal financial obligation debt against earnings and there is in the possession of the person or entity any of the earnings, RCW 6.27.150 shall not apply, but seventy-five percent of the disposable earnings shall be exempt and may be disbursed to the offender whether such earnings are paid, or to be paid weekly, monthly, or at other intervals and whether there is due the offender earnings for one week or for a longer period. The notice of payroll deduction or order to withhold and deliver shall continue to operate and require said person or entity to withhold the nonexempt portion of earnings, at each succeeding earnings disbursement interval until the entire amount of the court-ordered legal financial obligation debt has been withheld. [1991 c 93 § 11.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**9.94A.270 Offender supervision assessments.** (1) Whenever a punishment imposed under this chapter requires supervision services to be provided, the offender shall pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the terms of supervision and which shall be considered as payment or part payment of the cost of providing supervision to the offender. The department may exempt or defer a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982. [1991 c 104 § 1; 1989 c 252 § 8; 1984 c 209 § 15; 1982 c 207 § 2.]

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.310 Table 1—Sentencing grid.**

(1)

**TABLE 1  
Sentencing Grid**

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

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

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

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

(3) The following additional times shall be added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon as defined in this chapter and the offender is being sentenced for one of

the crimes listed in this subsection. If the offender or an accomplice was armed with a deadly weapon and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive range determined under subsection (2) of this section:

(a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)

(b) 18 months for Burglary 1 (RCW 9A.52.020)

(c) 12 months for Assault 2 (\*RCW 9A.36.020 or 9A.36.021), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug offense.

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

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

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

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

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

(5) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435. [1991 c 32 § 2; 1990 c 3 § 701. Prior: 1989 c 271 § 101; 1989 c 124 § 1; 1988 c 218 § 1; 1986 c 257 § 22; 1984 c 209 § 16; 1983 c 115 § 2.]

\*Reviser's note: RCW 9A.36.020 was repealed by 1986 c 257 § 9, effective July 1, 1988. For later enactment, see RCW 9A.36.021.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Application—1989 c 271 §§ 101-111: "Sections 101-111 of this act apply to crimes committed on or after July 1, 1989." [1989 c 271 § 114.]

Severability—1989 c 271: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 271 § 606.]

Severability—1986 c 257: See note following RCW 9A.56.010.

Effective date—1986 c 257 §§ 17-35: See note following RCW 9.94A.030.

Effective dates—1984 c 209: See note following RCW 9.94A.030.

**9.94A.320 Table 2—Crimes included within each seriousness level.**

TABLE 2 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
<p>XV Aggravated Murder 1 (RCW 10.95.020)</p> <p>XIV Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)</p> <p>XIII Murder 2 (RCW 9A.32.050)</p> <p>XII Assault 1 (RCW 9A.36.011)</p> <p>XI Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)</p> <p>X Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))</p> <p>IX Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I–V to someone under 18 and 3 years junior (RCW 69.50.406) Controlled Substance Homicide (RCW 69.50.415) Sexual Exploitation (RCW 9.68A.040) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))</p> <p>VIII Arson 1 (RCW 9A.48.020) Promoting Prostitution 1 (RCW 9A.88.070) Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410) Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i)) Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii)) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug</p>	<p>or by the operation of any vehicle in a reckless manner (RCW 46.61.520)</p> <p>VII Burglary 1 (RCW 9A.52.020) Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520) Introducing Contraband 1 (RCW 9A.76.140) Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) Child Molestation 2 (RCW 9A.44.086) Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050) Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060) Involving a minor in drug dealing (RCW 69.50.401(f))</p> <p>VI Bribery (RCW 9A.68.010) Manslaughter 2 (RCW 9A.32.070) Rape of a Child 3 (RCW 9A.44.079) Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2)) Endangering life and property by explosives with no threat to human being (RCW 70.74.270) Incest 1 (RCW 9A.64.020(1)) Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i)) Intimidating a Judge (RCW 9A.72.160) Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))</p> <p>V Criminal Mistreatment 1 (RCW 9A.42.020) Rape 3 (RCW 9A.44.060) Sexual Misconduct with a Minor 1 (RCW 9A.44.093) Child Molestation 3 (RCW 9A.44.089) Kidnapping 2 (RCW 9A.40.030) Extortion 1 (RCW 9A.56.120) Incest 2 (RCW 9A.64.020(2)) Perjury 1 (RCW 9A.72.020) Extortionate Extension of Credit (RCW 9A.82.020) Advancing money or property for extortionate extension of credit (RCW 9A.82.030) Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040) Rendering Criminal Assistance 1 (RCW 9A.76.070) Bail Jumping with class A Felony (RCW 9A.76.170(2)(b)) Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))</p>

- IV Residential Burglary (RCW 9A.52.025)  
Theft of Livestock 1 (RCW 9A.56.080)  
Robbery 2 (RCW 9A.56.210)  
Assault 2 (RCW 9A.36.021)  
Escape 1 (RCW 9A.76.110)  
Arson 2 (RCW 9A.48.030)  
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)  
Malicious Harassment (RCW 9A.36.080)  
Threats to Bomb (RCW 9.61.160)  
Willful Failure to Return from Furlough (RCW 72.66.060)  
Hit and Run — Injury Accident (RCW 46.52.020(4))  
Vehicular Assault (RCW 46.61.522)  
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I–V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))  
Influencing Outcome of Sporting Event (RCW 9A.82.070)  
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))  
Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal mistreatment 2 (RCW 9A.42.030)  
Extortion 2 (RCW 9A.56.130)  
Unlawful Imprisonment (RCW 9A.40.040)  
Assault 3 (RCW 9A.36.031)  
Custodial Assault (RCW 9A.36.100)  
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)  
Harassment (RCW 9A.46.020)  
Promoting Prostitution 2 (RCW 9A.88.080)  
Willful Failure to Return from Work Release (RCW 72.65.070)  
Burglary 2 (RCW 9A.52.030)  
Introducing Contraband 2 (RCW 9A.76.150)  
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)  
Patronizing a Juvenile Prostitute (RCW 9.68A.100)  
Escape 2 (RCW 9A.76.120)  
Perjury 2 (RCW 9A.72.030)  
Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))  
Intimidating a Public Servant (RCW 9A.76.180)  
Tampering with a Witness (RCW 9A.72.120)  
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))  
Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))  
Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))  
Theft of livestock 2 (RCW 9A.56.080)  
Securities Act violation (RCW 21.20.400)
- II Malicious Mischief 1 (RCW 9A.48.070)  
Possession of Stolen Property 1 (RCW 9A.56.150)  
Theft 1 (RCW 9A.56.030)  
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))  
Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
Computer Trespass 1 (RCW 9A.52.110)  
Reckless Endangerment 1 (RCW 9A.36.045)
- I Theft 2 (RCW 9A.56.040)  
Possession of Stolen Property 2 (RCW 9A.56.160)  
Forgery (RCW 9A.60.020)  
Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
Vehicle Prowl 1 (RCW 9A.52.095)  
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
Malicious Mischief 2 (RCW 9A.48.080)  
Reckless Burning 1 (RCW 9A.48.040)  
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
False Verification for Welfare (RCW 74.08.055)  
Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)  
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I–V (except phencyclidine) (RCW 69.50.401(d))

[1991 c 32 § 3; 1990 c 3 § 702. Prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12; 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 § 23; 1984 c 209 § 17; 1983 c 115 § 3.]

**Index, part headings not law—Severability—Effective dates—Application—**1990 c 3: See RCW 18.155.900 through 18.155.902.

**Effective date—**1989 2nd ex.s. c 1: See note following RCW 9A.52.025.

**Finding—Intent—**1989 c 271 §§ 102, 109, and 110: See note following RCW 9A.36.050.

**Application—**1989 c 271 §§ 101–111: See note following RCW 9.94A.310.

**Severability—**1989 c 271: See note following RCW 9.94A.310.

**Application—**1989 c 99: "This act applies to crimes committed after July 1, 1989." [1989 c 99 § 2.]

**Effective date—**1989 c 99: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of

the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 99 § 3.]

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Effective date—Application—1987 c 224:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. It shall apply to crimes committed on or after July 1, 1987." [1987 c 224 § 2.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.350 Offense seriousness level.** The offense seriousness level is determined by the offense of conviction. [1990 c 3 § 703; 1983 c 115 § 6.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**9.94A.360 Offender score.** The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (4) of this section, class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(4) Always include juvenile convictions for sex offenses. Include other class A juvenile felonies only if

the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(6) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Murder 1 or 2, Assault 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(11) If the present conviction is for Burglary 1, count prior convictions as in subsection (9) of this section;

however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(13) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (9) of this section if the current drug offense is violent, or as in subsection (8) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, or Willful Failure to Return from Work Release, RCW 72.65.070, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (8) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (8) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point. [1990 c 3 § 706; 1989 c 271 § 103. Prior: 1988 c 157 § 3; 1988 c 153 § 12; 1987 c 456 § 4; 1986 c 257 § 25; 1984 c 209 § 19; 1983 c 115 § 7.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1989 c 271 §§ 101–111:** See note following RCW 9.94A.310.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Application—1988 c 157:** See note following RCW 9.94A.030.

**Effective date—Implementation—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.390 Departures from the guidelines.** If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of

the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(iii) The current offense involved the manufacture of controlled substances for use by other parties; or

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(e) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127;

(f) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time; or

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010. [1990 c 3 § 603; 1989 c 408 § 1; 1987 c 131 § 2; 1986 c 257 § 27; 1984 c 209 § 24; 1983 c 115 § 10.]

**Effective date—Application—1990 c 3 §§ 601–605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900–18.155.902.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

#### **9.94A.400 Consecutive or concurrent sentences.**

(1)(a) Except as provided in (b) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(f) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault

or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of two or more serious violent offenses, as defined in RCW 9.94A.030, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months. [1990 c 3 § 704. Prior: 1988 c 157 § 5; 1988 c 143 § 24; 1987 c 456 § 5; 1986 c 257 § 28; 1984 c 209 § 25; 1983 c 115 § 11.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1988 c 157:** See note following RCW 9.94A.030.

**Applicability—1988 c 143 §§ 21–24:** See note following RCW 9.94A.120.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17–35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

## Chapter 9.95

## INDETERMINATE SENTENCES

(Formerly: Prison terms, paroles, and probation)

## Sections

- 9.95.009 Board of prison terms and paroles—Existence ceases July 1, 1986—Reductions in membership—Continuation of functions.
- 9.95.140 Record of parolees—Privacy—Sexual offender information release—Immunity from liability—Cooperation by officials and employees.
- 9.95.145 Sex offenders—Release of information.

**9.95.009 Board of prison terms and paroles—Existence ceases July 1, 1986—Reductions in membership—Continuation of functions.** (1) On July 1, 1986, the board of prison terms and paroles shall be redesignated as the indeterminate sentence review board. The board's membership shall be reduced as follows: On July 1, 1986, and on July 1st of each year until 1998, the number of board members shall be reduced in a manner commensurate with the board's remaining workload as determined by the office of financial management based upon its population forecast for the indeterminate sentencing system and in conjunction with the budget process. To meet the statutory obligations of the indeterminate sentence review board, the number of board members shall not be reduced to fewer than three members, although the office of financial management may designate some or all members as part-time members and specify the extent to which they shall be less than full-time members. Any reduction shall take place by the expiration, on that date, of the term or terms having the least time left to serve.

(2) After July 1, 1984, the board shall continue its functions with respect to persons convicted of crimes committed prior to July 1, 1984, and committed to the department of corrections. When making decisions on duration of confinement, including those relating to persons committed under a mandatory life sentence, and parole release under RCW 9.95.100 and 9.95.110, the board shall consider the purposes, standards, and sentencing ranges adopted pursuant to RCW 9.94A.040 and the minimum term recommendations of the sentencing judge and prosecuting attorney, and shall attempt to make decisions reasonably consistent with those ranges, standards, purposes, and recommendations: PROVIDED, That the board and its successors shall give adequate written reasons whenever a minimum term or parole release decision is made which is outside the sentencing ranges adopted pursuant to RCW 9.94A.040. In making such decisions, the board and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

(3) Notwithstanding the provisions of subsection (2) of this section, the indeterminate sentence review board shall give public safety considerations the highest priority when making all discretionary decisions on the remaining indeterminate population regarding the ability

for parole, parole release, and conditions of parole. [1990 c 3 § 707; 1989 c 259 § 1; 1986 c 224 § 6; 1985 c 279 § 1; 1982 c 192 § 8; 1981 c 137 § 24.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Severability—1986 c 224:** See notes following RCW 9.95.001.

**Severability—1981 c 137:** See RCW 9.94A.910.

**9.95.140 Record of parolees—Privacy—Sexual offender information release—Immunity from liability—Cooperation by officials and employees.** The \*board of prison terms and paroles shall cause a complete record to be kept of every prisoner released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there will be always immediately available complete information about each such prisoner. The board may make rules as to the privacy of such records and their use by others than the board and its staff. In determining the rules regarding dissemination of information regarding convicted sex offenders under the board's jurisdiction, the board shall consider the provisions of \*\*section 116, chapter 3, Laws of 1990 and RCW 4.24.550 and shall be immune from liability for the release of information concerning sex offenders as provided in RCW 4.24.550.

The superintendent of the penitentiary and the reformatory and all officers and employees thereof and all other public officials shall at all times cooperate with the board and furnish to the board, its officers, and employees such information as may be necessary to enable it to perform its functions, and such superintendents and other employees shall at all times give the members of the board, its officers, and employees free access to all prisoners confined in the penal institutions of the state. [1990 c 3 § 126; 1955 c 133 § 15. Prior: 1939 c 142 § 1, part; 1935 c 114 § 4, part; RRS § 10249-4, part.]

**Reviser's note:** \*(1) The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

\*\* (2) Section 116, chapter 3, Laws of 1990 appears as a note following RCW 4.24.550.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

*Washington state patrol, identification, child abuse, vulnerable adult abuse, and criminal history section: RCW 43.43.700 through 43.43.765.*

**9.95.145 Sex offenders—Release of information.** In addition to any other information required to be released under this chapter, the indeterminate sentence review board may, pursuant to RCW 4.24.550, release information concerning inmates under the jurisdiction of the indeterminate sentence review board who are convicted of sex offenses as defined in RCW 9.94A.030. [1990 c 3 § 127.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Chapter 9.95B**  
**INTERSTATE PAROLE AND PROBATION**  
**HEARING PROCEDURES**

Sections  
9.95B.010 through 9.95B.040 Repealed.  
9.95B.900 Repealed.

**9.95B.010 through 9.95B.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**9.95B.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Title 9A**  
**WASHINGTON CRIMINAL CODE**  
(See also Crimes and Punishments, Title 9 RCW)

**Chapters**

**9A.32 Homicide.**  
**9A.36 Assault and other crimes involving physical harm.**  
**9A.44 Sexual offenses.**  
**9A.76 Obstructing governmental operation.**  
**9A.88 Indecent exposure—Prostitution.**

**Chapter 9A.32**  
**HOMICIDE**

Sections  
9A.32.030 Murder in the first degree.

**9A.32.030 Murder in the first degree.** (1) A person is guilty of murder in the first degree when:

(a) With a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person; or

(b) Under circumstances manifesting an extreme indifference to human life, he or she engages in conduct which creates a grave risk of death to any person, and thereby causes the death of a person; or

(c) He or she commits or attempts to commit the crime of either (1) robbery in the first or second degree, (2) rape in the first or second degree, (3) burglary in the first degree, (4) arson in the first or second degree, or (5) kidnapping in the first or second degree, and in the course of or in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants: Except that in any prosecution under this subdivision (1)(c) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and

(ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and

(iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and

(iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(2) Murder in the first degree is a class A felony. [1990 c 200 § 1; 1975-'76 2nd ex.s. c 38 § 3; 1975 1st ex.s. c 260 § 9A.32.030.]

**Effective date—Severability—1975-'76 2nd ex.s. c 38:** See notes following RCW 9A.08.020.

**Chapter 9A.36**  
**ASSAULT AND OTHER CRIMES INVOLVING**  
**PHYSICAL HARM**

Sections  
9A.36.031 Assault in the third degree.

**9A.36.031 Assault in the third degree.** (1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle that is owned or operated by the transit company and that is occupied by one or more passengers; or

(c) Assaults a school bus driver employed by a school district or a private company under contract for transportation services with a school district while the driver is operating or is in control of a school bus that is occupied by one or more passengers; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault.

(2) Assault in the third degree is a class C felony. [1990 c 236 § 1; 1989 c 169 § 1; 1988 c 158 § 3; 1986 c 257 § 6.]

**Effective date—1988 c 158:** See note following RCW 9A.04.110.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 3-10:** See note following RCW 9A.04.110.

**Chapter 9A.44**  
**SEXUAL OFFENSES**

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

## Sections

9A.44.050	Rape in the second degree.
9A.44.076	Rape of a child in the second degree.
9A.44.083	Child molestation in the first degree.
9A.44.120	Admissibility of child's statement—Conditions.
9A.44.130	Registration of sex offenders—Procedures—Sex offense defined—Penalties.
9A.44.140	Registration of sex offenders—Termination of duty to register.
9A.44.150	Testimony of child by closed circuit television.

**9A.44.050 Rape in the second degree.** (1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

- (a) By forcible compulsion;
- (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

(2) Rape in the second degree is a class A felony. [1990 c 3 § 901; 1988 c 146 § 1; 1983 c 118 § 2; 1979 ex.s. c 244 § 2; 1975 1st ex.s. c 14 § 5. Formerly RCW 9.79.180.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—1988 c 146:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 146 § 5.]

**Effective dates—1988 c 146:** "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1988]. The remainder of this act shall take effect July 1, 1988." [1988 c 146 § 6.]

**9A.44.076 Rape of a child in the second degree.** (1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Rape of a child in the second degree is a class A felony. [1990 c 3 § 903; 1988 c 145 § 3.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**9A.44.083 Child molestation in the first degree.** (1) A person is guilty of child molestation in the first degree when the person has sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class A felony. [1990 c 3 § 902; 1988 c 145 § 5.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**9A.44.120 Admissibility of child's statement—Conditions.** A statement made by a child when under the age of ten describing any act of sexual contact performed with or on the child by another or describing any attempted act of sexual contact with or on the child by another, not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

(1) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and

(2) The child either:

- (a) Testifies at the proceedings; or
- (b) Is unavailable as a witness: PROVIDED, That when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement. [1991 c 169 § 1; 1985 c 404 § 1; 1982 c 129 § 2.]

**Severability—1982 c 129:** See note following RCW 9A.04.080.

**9A.44.130 Registration of sex offenders—Procedures—Sex offense defined—Penalties.** (1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) Sex offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses:

(i) **SEX OFFENDERS IN CUSTODY.** Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the sex offender of the duty to register. Failure to register within twenty-four hours of

release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) **SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION.** Sex offenders, who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the active supervision of the state department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991.

(iii) **SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(iv) **SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders who move to Washington state from another state that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state, federal statutes, or Washington state for offenses committed on or after February 28, 1990. Sex offenders from other states who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within ten days of establishing the new residence. If any person required to register pursuant to this section moves to a new county, the person must register with the county sheriff in the new county within ten days of establishing the new residence. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered.

(5) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex offense by RCW 9.94A.030.

(7) A person who knowingly fails to register as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony. If the crime was other than a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony, violation of this section is a gross misdemeanor. [1991 c 274 § 2; 1990 c 3 § 402.]

**Finding and intent—1991 c 274:** "The legislature finds that sex offender registration has assisted law enforcement agencies in protecting their communities. This act is intended to clarify and amend the deadlines for sex offenders to register. This act's clarification or amendment of RCW 9A.44.130 does not relieve the obligation of sex offenders to comply with the registration requirements of RCW 9A.44.130 as that statute exists before July 28, 1991." [1991 c 274 § 1.] This act consisted of the 1991 c 274 amendments to RCW 9A.44.130 and 9A.44.140.

**Finding—Policy—1990 c 3 § 402:** "The legislature finds that sex offenders often pose a high risk of reoffense, and that law enforcement's efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the law enforcement agency's jurisdiction. Therefore, this state's policy is to assist local law enforcement agencies' efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies as provided in RCW 9A.44.130." [1990 c 3 § 401.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**9A.44.140 Registration of sex offenders—Termination of duty to register.** (1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony: Such person may only be relieved of the duty to register under subsection (2) or (3) of this section.

(b) For a person convicted of a class B felony: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence,

if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (3) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(3) An offender having a duty to register under RCW 9A.44.130 for a sex offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses during the twenty-four months following the adjudication for the sex offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(5) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130. [1991 c 274 § 3; 1990 c 3 § 408.]

**Finding and intent**—1991 c 274: See note following RCW 9A.44.130.

**Index, part headings not law**—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

**9A.44.150 Testimony of child by closed circuit television.** (1) On motion of the prosecuting attorney in a criminal proceeding, the court may order that a child under the age of ten may testify in a room outside the presence of the defendant and the jury while one-way closed circuit television equipment simultaneously projects the child's testimony into another room so the defendant and the jury can watch and hear the child testify if:

(a) The testimony will describe an act or attempted act of sexual contact performed with or on the child by another or describe an act or attempted act of physical abuse against the child by another;

(b) The testimony is taken during the criminal proceeding;

(c) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that requiring the child to testify in the presence of the defendant will cause the child to suffer serious emotional or mental distress that will prevent the child from reasonably communicating at the trial. If the defendant is excluded from the presence of the child, the jury must also be excluded;

(d) As provided in subsection (1) (a) and (b) of this section, the court may allow a child to testify in the presence of the defendant but outside the presence of the jury, via closed circuit television, if the court finds, upon motion and hearing outside the presence of the jury, that the child will suffer serious emotional distress that will prevent the child from reasonably communicating at the trial in front of the jury, or, that although the child may be able to reasonably communicate at trial in front of the jury, the child will suffer serious emotional or mental distress from testifying in front of the jury. If the child is able to communicate in front of the defendant but not the jury the defendant will remain in the room with the child while the jury is excluded from the room;

(e) The court finds that the prosecutor has made all reasonable efforts to prepare the child for testifying, including informing the child or the child's parent or guardian about community counseling services, giving court tours, and explaining the trial process. If the prosecutor fails to demonstrate that preparations were implemented or the prosecutor in good faith attempted to implement them, the court shall deny the motion;

(f) The court balances the strength of the state's case without the testimony of the child against the defendant's constitutional rights and the degree of infringement of the closed-circuit television procedure on those rights;

(g) The court finds that no less restrictive method of obtaining the testimony exists that can adequately protect the child from the serious emotional or mental distress;

(h) When the court allows the child to testify outside the presence of the defendant, the defendant can communicate constantly with the defense attorney by electronic transmission and be granted reasonable court

recesses during the child's testimony for person-to-person consultation with the defense attorney;

(i) The court can communicate with the attorneys by an audio system so that the court can rule on objections and otherwise control the proceedings;

(j) All parties in the room with the child are on camera and can be viewed by all other parties. If viewing all participants is not possible, the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child;

(k) The court finds that the television equipment is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment; and

(l) The court imposes reasonable guidelines upon the parties for conducting the filming to avoid trauma to the child or abuse of the procedure for tactical advantage.

The prosecutor, defense attorney, and a neutral and trained victim's advocate, if any, shall always be in the room where the child is testifying. The court in the court's discretion depending on the circumstances and whether the jury or defendant or both are excluded from the room where the child is testifying, may remain or may not remain in the room with the child.

(2) During the hearing conducted under subsection (1) of this section to determine whether the child may testify outside the presence of the defendant and/or the jury, the court may conduct the observation and examination of the child outside the presence of the defendant if:

(a) The prosecutor alleges and the court concurs that the child will be unable to testify in front of the defendant or will suffer severe emotional or mental distress if forced to testify in front of the defendant;

(b) The defendant can observe and hear the child by closed-circuit television;

(c) The defendant can communicate constantly with the defense attorney during the examination of the child by electronic transmission and be granted reasonable court recesses during the child's examination for person-to-person consultation with the defense attorney; and

(d) The court finds the closed-circuit television is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment. Whenever possible, all the parties in the room with the child shall be on camera so that the viewers can see all the parties. If viewing all participants is not possible, then the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child.

(3) The court shall make particularized findings on the record articulating the factors upon which the court based its decision to allow the child to testify via closed-circuit television pursuant to this section. The factors the court may consider include, but are not limited to, a consideration of the child's age, physical health, emotional stability, expressions by the child of testifying in open court or in front of the defendant, the relationship of the defendant to the child, and the court's observations of the child's inability to reasonably communicate in front of the defendant or in open court. The

court's findings shall identify the impact the factors have upon the child's ability to testify in front of the jury or the defendant or both and the specific nature of the emotional or mental trauma the child would suffer. The court shall determine whether the source of the trauma is the presence of the defendant, the jury, or both, and shall limit the use of the closed-circuit television accordingly.

(4) This section does not apply if the defendant is an attorney pro se unless the defendant has a court-appointed attorney assisting the defendant in the defense.

(5) This section may not preclude the presence of both the victim and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a legitimate issue in the proceeding.

(6) The Washington supreme court may adopt rules of procedure regarding closed-circuit television procedures.

(7) All recorded tapes of testimony produced by closed-circuit television equipment shall be subject to any protective order of the court for the purpose of protecting the privacy of the child.

(8) Nothing in this section creates a right of the child witness to a closed-circuit television procedure in lieu of testifying in open court.

(9) The state shall bear the costs of the closed-circuit television procedure. [1990 c 150 § 2.]

**Legislative declaration—1990 c 150:** "The legislature declares that protection of child witnesses in sexual assault and physical abuse cases is a substantial and compelling interest of the state. Sexual and physical abuse cases are some of the most difficult cases to prosecute, in part because frequently no witnesses exist except the child victim. When abuse is prosecuted, a child victim may suffer serious emotional and mental trauma from exposure to the abuser or from testifying in open court. In rare cases, the child is so traumatized that the child is unable to testify at trial and is unavailable as a witness or the child's ability to communicate in front of the jury or defendant is so reduced that the truth-seeking function of trial is impaired. In other rare cases, the child is able to proceed to trial but suffers long-lasting trauma as a result of testifying in court or in front of the defendant. The creation of procedural devices designed to enhance the truth-seeking process and to shield child victims from the trauma of exposure to the abuser and the courtroom is a compelling state interest." [1990 c 150 § 1.]

**Severability—1990 c 150:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 150 § 3.]

## Chapter 9A.76

### OBSTRUCTING GOVERNMENTAL OPERATION

#### Sections

9A.76.010 Definitions.

**9A.76.010 Definitions.** The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Custody" means restraint pursuant to a lawful arrest or an order of a court, or any period of service on a work crew: PROVIDED, That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and 74.13.031 and chapter 13.32A RCW shall not be deemed custody for purposes of this chapter;

(2) "Detention facility" means any place used for the confinement of a person (a) arrested for, charged with or convicted of an offense, or (b) charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020 as now existing or hereafter amended, or (c) held for extradition or as a material witness, or (d) otherwise confined pursuant to an order of a court, except an order under chapter 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough, or other such facility or program;

(3) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court. [1991 c 181 § 6; 1979 c 155 § 35; 1977 ex.s. c 291 § 53; 1975 1st ex.s. c 260 § 9A.76.010.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

### Chapter 9A.88

#### INDECENT EXPOSURE—PROSTITUTION

(Formerly: Public indecency—Prostitution)

##### Sections

9A.88.010 Indecent exposure.

**9A.88.010 Indecent exposure.** (1) A person is guilty of indecent exposure if he intentionally makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

(2) Indecent exposure is a misdemeanor unless such person exposes himself to a person under the age of fourteen years in which case indecent exposure is a gross misdemeanor on the first offense and, if such person has previously been convicted under this subsection or of a sex offense as defined in RCW 9.94A.030, then such person is guilty of a class C felony punishable under chapter 9A.20 RCW. [1990 c 3 § 904; 1987 c 277 § 1; 1975 1st ex.s. c 260 § 9A.88.010.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

## Title 10

### CRIMINAL PROCEDURE

#### Chapters

- 10.01 General provisions.
- 10.05 Deferred prosecution—Courts of limited jurisdiction.
- 10.14 Harassment.
- 10.64 Judgments and sentences.
- 10.77 Criminally insane—Procedures.
- 10.82 Collection and disposition of fines and costs.
- 10.95 Capital punishment—Aggravated first degree murder.
- 10.97 Washington State Criminal Records Privacy Act.

#### 10.99 Domestic violence—Official response.

#### Chapter 10.01

#### GENERAL PROVISIONS

##### Sections

- 10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission.
- 10.01.200 Registration of sex offenders—Notice to defendants.

**10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission.** (1) The court may require a convicted defendant, or defendant granted a deferred prosecution under chapter 10.05 RCW, to pay costs.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a convicted defendant to pay. Costs for administering a deferred prosecution may not exceed one hundred fifty dollars.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced him for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170. [1991 c 247 § 4; 1987 c 363 § 1; 1985 c 389 § 1; 1975-'76 2nd ex.s. c 96 § 1.]

*Commitment for failure to pay fine and costs: RCW 10.70.010, 10.82.030.*

*Defendant liable for costs: RCW 10.64.015.*

*Fine and costs—Collection procedure, commitment for failure to pay, execution against defendant's property: Chapter 10.82 RCW.*

**10.01.200 Registration of sex offenders—Notice to defendants.** The court shall provide written notification to any defendant charged with a sex offense of the registration requirements of RCW 9A.44.130. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant. [1990 c 3 § 404.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.  
*Sex offense defined: RCW 9A.44.130.*

**Chapter 10.05**  
**DEFERRED PROSECUTION—COURTS OF**  
**LIMITED JURISDICTION**

Sections	
10.05.060	Docket and abstract procedure upon approval of treatment plan.
10.05.140	Conditions of granting.
10.05.170	Supervision as condition—Levy of assessment.

**10.05.060 Docket and abstract procedure upon approval of treatment plan.** If the report recommends treatment, the court shall examine the treatment plan. If it approves the plan and the petitioner agrees to comply with its terms and conditions and agrees to pay the cost thereof, if able to do so, or arrange for the treatment, an entry shall be made upon the person's court docket showing that the person has been accepted for deferred prosecution. A copy of the treatment plan shall be attached to the docket, which shall then be removed from the regular court dockets and filed in a special court deferred prosecution file. If the charge be one that an abstract of the docket showing the charge and the date of petitioner's acceptance is required to be sent to the department of licensing, an abstract shall be sent, and the department of licensing shall make an entry of the charge and of the petitioner's acceptance for deferred prosecution on the department's driving record of the petitioner. The entry is not a conviction for purposes of Title 46 RCW. The department shall maintain the record for five years from date of entry of the order granting deferred prosecution. [1990 c 250 § 13; 1985 c 352 § 9; 1979 c 158 § 4; 1975 1st ex.s. c 244 § 6.]

**Effective dates—**1990 c 250 §§ 1-13: See note following RCW 46.16.301.

**Severability—**1990 c 250: See note following RCW 46.16.301.

**Legislative finding—Severability—**1985 c 352: See notes following RCW 10.05.010.

**10.05.140 Conditions of granting.** As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. The court may terminate the deferred prosecution program upon violation of this section. [1991 c 247 § 1; 1985 c 352 § 16.]

**Legislative finding—Severability—**1985 c 352: See notes following RCW 10.05.010.

**10.05.170 Supervision as condition—Levy of assessment.** As a condition of granting deferred prosecution, the court may order supervision of the petitioner during the period of deferral and may levy a monthly assessment upon the petitioner as provided in RCW 10.64.120. In a jurisdiction with a probation department,

the court may appoint the probation department to supervise the petitioner. In a jurisdiction without a probation department, the court may appoint an appropriate person or agency to supervise the petitioner. A supervisor appointed under this section shall be required to do at least the following:

(1) If the charge for which deferral is granted relates to operation of a motor vehicle, at least once every six months request from the department of licensing an abstract of the petitioner's driving record; and

(2) At least once every month make contact with the petitioner or with any agency to which the petitioner has been directed for treatment as a part of the deferral. [1991 c 247 § 2; 1985 c 352 § 19.]

**Legislative finding—Severability—**1985 c 352: See notes following RCW 10.05.010.

**Chapter 10.14**  
**HARASSMENT**

Sections	
10.14.150	Jurisdiction.

**10.14.150 Jurisdiction.** The district courts shall have jurisdiction and cognizance of any civil actions and proceedings brought under this chapter. Superior courts shall have concurrent jurisdiction to receive transfer of antiharassment petitions in cases where a district court judge makes findings of fact and conclusions of law showing that meritorious reasons exist [exist] for the transfer. The municipal and district courts shall have jurisdiction and cognizance of any criminal actions brought under RCW 10.14.120 and 10.14.170. [1991 c 33 § 2; 1987 c 280 § 15.]

**Effective date—**1991 c 33: See note following RCW 3.66.020.

**Chapter 10.64**  
**JUDGMENTS AND SENTENCES**

Sections	
10.64.120	Referral assessments.

**10.64.120 Referral assessments.** (1) Every judge of a court of limited jurisdiction shall have the authority to levy a monthly assessment not to exceed fifty dollars for services provided whenever a person is referred by the court to the probation department for evaluation or supervision services. The assessment may also be made by a sentencing judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court.

(2) It shall be the responsibility of the probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

(3) Revenues raised under this section shall be used to fund programs for probation services and shall be in addition to those funds provided in RCW 3.62.050. [1991 c 247 § 3; 1982 c 207 § 4.]

### Chapter 10.77

## CRIMINALLY INSANE—PROCEDURES

#### Sections

- 10.77.163 Furlough—Notice to law enforcement agencies—Time requirements—Temporary restraining order.  
 10.77.165 Escape or disappearance—Notification requirements.  
 10.77.205 Persons acquitted of sex or violent offense due to insanity, in custody of department—Notification of conditional release, final discharge, furlough, transfer, or escape—To whom given—Definitions.  
 10.77.207 Persons acquitted of sex offense due to insanity—Release of information authorized.  
 10.77.210 Right to adequate care and treatment—Records and reports to be kept—Availability.

**10.77.163 Furlough—Notice to law enforcement agencies—Time requirements—Temporary restraining order.** (1) Before a person committed under this chapter is permitted temporarily to leave a treatment facility for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.

(2) In addition to the notice required by subsection (1) of this section, the superintendent of each state institution designated for the custody, care, and treatment of persons committed under this chapter shall notify appropriate law enforcement agencies through the state patrol communications network of the furloughs of persons committed under RCW 10.77.090 or 10.77.110. Notification shall be made at least forty-eight hours before the furlough, and shall include the name of the person, the place to which the person has permission to go, and the dates and times during which the person will be on furlough.

(3) Upon receiving notice that a person committed under this chapter is being temporarily released under subsection (1) of this section, the prosecuting attorney may seek a temporary restraining order to prevent the release of the person on the grounds that the person is dangerous to self or others.

(4) The notice provisions of this section are in addition to those provided in RCW 10.77.205. [1990 c 3 § 106; 1989 c 420 § 9; 1983 c 122 § 2.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**10.77.165 Escape or disappearance—Notification requirements.** In the event of an escape by a person

committed under this chapter from a state institution or the disappearance of such a person on conditional release, the superintendent shall notify as appropriate, local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in the apprehension of the person. The notice provisions of this section are in addition to those provided in RCW 10.77.205. [1990 c 3 § 107; 1989 c 420 § 10; 1983 c 122 § 3.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**10.77.205 Persons acquitted of sex or violent offense due to insanity, in custody of department—Notification of conditional release, final discharge, furlough, transfer, or escape—To whom given—Definitions.**

(1)(a) At the earliest possible date, and in no event later than ten days before conditional release, final discharge, authorized furlough pursuant to RCW 10.77.163, or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of the conditional release, final discharge, authorized furlough, or transfer of a person who has been found not guilty of a sex or violent offense by reason of insanity and who is now in the custody of the department pursuant to this chapter, to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) In addition to the notice requirements of (a) and (b) of this subsection, the superintendent shall comply with RCW 10.77.163.

(2) If a person who has been found not guilty of a sex or violent offense by reason of insanity and who is committed under this chapter escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim, if any, of the crime for which the person was committed or the victim's next of kin if the

crime was a homicide. The superintendent shall also notify appropriate persons pursuant to RCW 10.77.165. If the person is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

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

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

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

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

(d) "Authorized furlough" means a furlough granted after compliance with RCW 10.77.163. [1990 c 3 § 104.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**10.77.207 Persons acquitted of sex offense due to insanity—Release of information authorized.** In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information necessary to protect the public concerning a person who was acquitted of a sex offense as defined in RCW 9.94A.030 due to insanity and was subsequently committed to the department pursuant to this chapter. [1990 c 3 § 105.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**10.77.210 Right to adequate care and treatment—Records and reports to be kept—Availability.** Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in RCW 10.77.205 and 4.24.550 regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons

who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the indeterminate sentence review board if the person was on parole or probation at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter. [1990 c 3 § 108; 1989 c 420 § 12; 1983 c 196 § 3; 1973 1st ex.s. c 117 § 21.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

## Chapter 10.82

### COLLECTION AND DISPOSITION OF FINES AND COSTS

#### Sections

10.82.030 Commitment for failure to pay fine and costs—Execution against defendant's property—Reduction by payment, labor, or confinement.

**10.82.030 Commitment for failure to pay fine and costs—Execution against defendant's property—Reduction by payment, labor, or confinement.** If any person ordered into custody until the fine and costs adjudged against him be paid shall not, within five days, pay, or cause the payment of the same to be made, the clerk of the court shall issue a warrant to the sheriff commanding him to imprison such defendant in the county jail until the amount of such fine and costs owing are paid. Execution may at any time issue against the property of the defendant for that portion of such fine and costs not reduced by the application of this section. The amount of such fine and costs owing shall be the whole of such fine and costs reduced by the amount of any portion thereof paid, and an amount established by the county legislative authority for every day the defendant performs labor as provided in RCW 10.82.040, and a lesser amount established by the county legislative authority for every day the defendant does not perform such labor while imprisoned. [1991 c 183 § 1; 1983 c 276 § 2; 1967 c 200 § 4; 1891 c 28 § 84; 1883 p 38 § 1, part; Code 1881 § 1125; 1873 p 243 § 283; 1854 p 124 § 147; RRS § 2206. Formerly RCW 10.82.030 and 10.82.050.]

**Severability—1967 c 200: See note following RCW 9.45.122.**  
**Commitment until fines and costs are paid: RCW 10.70.010.**  
**Fine and costs, liability of defendant, collection procedure, contempt, commitment, execution: RCW 10.01.160 through 10.01.180.**

## Chapter 10.95

### CAPITAL PUNISHMENT—AGGRAVATED FIRST DEGREE MURDER

#### Sections

10.95.160 Death warrant—Issuance—Form—Time for execution of judgment and sentence.  
10.95.200 Proceedings for failure to execute on day named.

**10.95.160 Death warrant—Issuance—Form—Time for execution of judgment and sentence.**

(1) If a death sentence is affirmed and the case remanded to the trial court as provided in RCW 10.95.140(2), a death warrant shall forthwith be issued by the clerk of the trial court, which shall be signed by a judge of the trial court and attested by the clerk thereof under the seal of the court. The warrant shall be directed to the superintendent of the state penitentiary and shall state the conviction of the person named therein and the judgment and sentence of the court, and shall appoint a day on which the judgment and sentence of the court shall be executed by the superintendent, which day shall not be less than thirty nor more than ninety days from the date the trial court receives the remand from the supreme court of Washington.

(2) If the date set for execution under subsection (1) of this section is stayed by a court of competent jurisdiction for any reason, the new execution date is automatically set at thirty judicial days after the entry of an order of termination or vacation of the stay by such court unless the court invalidates the conviction, sentence, or remands for further judicial proceedings. The presence of the inmate under sentence of death shall not be required for the court to vacate or terminate the stay according to this section. [1990 c 263 § 1; 1981 c 138 § 16.]

**10.95.200 Proceedings for failure to execute on day named.** Whenever the day appointed for the execution of a defendant shall have passed, from any cause, other than the issuance of a stay by a court of competent jurisdiction, without the execution of such defendant having occurred, the trial court which issued the original death warrant shall issue a new death warrant in accordance with RCW 10.95.160. The defendant's presence before the court is not required. However, nothing in this section shall be construed as restricting the defendant's right to be represented by counsel in connection with issuance of a new death warrant. [1990 c 263 § 2; 1987 c 286 § 1; 1981 c 138 § 20.]

**Chapter 10.97**

**WASHINGTON STATE CRIMINAL RECORDS  
PRIVACY ACT**

**Sections**

10.97.030	Definitions.
10.97.050	Unrestricted dissemination of certain information—Dissemination of other information to certain persons or for certain purposes—Records of dissemination, contents.

**10.97.030 Definitions.** For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising

therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130 as now existing or hereafter amended;

(f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 47.68.330 as now existing or hereafter amended;

(g) Announcements of executive clemency.

(2) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges, except a decision not to prosecute, a dismissal, or acquittal except when the acquittal is due to a finding of not guilty by reason of insanity pursuant to chapter 10.77 RCW and the person was committed pursuant to chapter 10.77 RCW: PROVIDED, HOWEVER, That a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision,

or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(7) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(8) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single record keeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge, is not a dissemination;

(c) The reporting of an event to a record keeping agency for the purpose of maintaining the record is not a dissemination. [1990 c 3 § 128; 1979 ex.s. c 36 § 1; 1979 c 158 § 5; 1977 ex.s. c 314 § 3.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**10.97.050 Unrestricted dissemination of certain information—Dissemination of other information to certain persons or for certain purposes—Records of dissemination, contents.** (1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction

data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

(8) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination of criminal history record information concerning sex offenders as provided in RCW 4.24.550. [1990 c 3 § 129; 1977 ex.s. c 314 § 5.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

## Chapter 10.99

## DOMESTIC VIOLENCE—OFFICIAL RESPONSE

## Sections

10.99.020	Definitions.
10.99.040	Restrictions upon and duties of court.
10.99.050	Restriction or prohibition of contact with victim— Violation, penalties—Written order—Procedures.

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

(1) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, and adult persons who are presently residing together or who have resided together in the past.

(2) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (a) Assault in the first degree (RCW 9A.36.011);
- (b) Assault in the second degree (RCW 9A.36.021);
- (c) Assault in the third degree (RCW 9A.36.031);
- (d) Assault in the fourth degree (RCW 9A.36.041);
- (e) Reckless endangerment in the first degree (RCW 9A.36.045);
- (f) Reckless endangerment in the second degree (RCW 9A.36.050);
- (g) Coercion (RCW 9A.36.070);
- (h) Burglary in the first degree (RCW 9A.52.020);
- (i) Burglary in the second degree (RCW 9A.52.030);
- (j) Criminal trespass in the first degree (RCW 9A.52.070);
- (k) Criminal trespass in the second degree (RCW 9A.52.080);
- (l) Malicious mischief in the first degree (RCW 9A.48.070);
- (m) Malicious mischief in the second degree (RCW 9A.48.080);
- (n) Malicious mischief in the third degree (RCW 9A.48.090);
- (o) Kidnapping in the first degree (RCW 9A.40.020);
- (p) Kidnapping in the second degree (RCW 9A.40.030);
- (q) Unlawful imprisonment (RCW 9A.40.040);
- (r) Violation of the provisions of a restraining order restraining the person or excluding the person from a residence (RCW 26.09.300);
- (s) Violation of the provisions of a protection order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, or 26.50.130);
- (t) Rape in the first degree (RCW 9A.44.040); and
- (u) Rape in the second degree (RCW 9A.44.050).

(3) "Victim" means a family or household member who has been subjected to domestic violence. [1991 c 301 § 3; 1986 c 257 § 8; 1984 c 263 § 20; 1979 ex.s. c 105 § 2.]

**Finding—1991 c 301:** "The legislature finds that:

The collective costs to the community for domestic violence include the systematic destruction of individuals and their families, lost lives,

lost productivity, and increased health care, criminal justice, and social service costs.

Children growing up in violent homes are deeply affected by the violence as it happens and could be the next generation of batterers and victims.

Many communities have made headway in addressing the effects of domestic violence and have devoted energy and resources to stopping this violence. However, the process for breaking the cycle of abuse is lengthy. No single system intervention is enough in itself.

An integrated system has not been adequately funded and structured to assure access to a wide range of services, including those of the law/safety/justice system, human service system, and health care system. These services need to be coordinated and multidisciplinary in approach and address the needs of victims, batterers, and children from violent homes.

Given the lethal nature of domestic violence and its effect on all within its range, the community has a vested interest in the methods used to stop and prevent future violence. Clear standards of quality are needed so that perpetrator treatment programs receiving public funds or court-ordered referrals can be required to comply with these standards.

While incidents of domestic violence are not caused by perpetrator's use of alcohol and illegal substances, substance abuse may be a contributing factor to domestic violence and the injuries and deaths that result from it.

There is a need for consistent training of professionals who deal frequently with domestic violence or are in a position to identify domestic violence and provide support and information.

Much has been learned about effective interventions in domestic violence situations; however, much is not yet known and further study is required to know how to best stop this violence." [1991 c 301 § 1.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 3–10:** See note following RCW 9A.04.110.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

*Domestic violence defined under the domestic violence prevention act: RCW 26.50.010.*

**10.99.040 Restrictions upon and duties of court.** (1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: **PROVIDED**, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting

that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the person charged or arrested is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require that person to surrender any deadly weapon in that person's immediate possession or control, or subject to that person's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which that person resides or to the defendant's counsel for safekeeping.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended.

(4) Willful violation of a court order issued under subsection (2) or (3) of this section is a misdemeanor. Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. [1991 c 301 § 4; 1985 c 303 § 10; 1984 c 263 § 22; 1983 c 232 § 7; 1981 c 145 § 6; 1979 ex.s. c 105 § 4.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

**Effective date**—**Severability**—1984 c 263: See RCW 26.50.901 and 26.50.902.

**Severability**—1983 c 232: See note following RCW 9.41.010.

*Child abuse, temporary restraining order: RCW 26.44.063.*

*Orders for protection in cases of domestic violence: RCW 26.50.030, 26.50.070.*

*Temporary restraining order: RCW 26.09.060.*

**10.99.050 Restriction or prohibition of contact with victim—Violation, penalties—Written order—Procedures.** (1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2) Willful violation of a court order issued under this section is a misdemeanor. Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. [1991 c 301 § 5; 1985 c 303 § 12; 1984 c 263 § 24; 1979 ex.s. c 105 § 5.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

**Effective date**—**Severability**—1984 c 263: See RCW 26.50.901 and 26.50.902.

## Title 11

### PROBATE AND TRUST LAW

(Formerly: Probate Law and Procedure—1965 Act)

#### Chapters

- 11.02** General provisions.
- 11.08** Escheats.
- 11.12** Wills.
- 11.36** Qualifications of personal representatives.
- 11.40** Claims against estate.
- 11.44** Inventory and appraisal.
- 11.56** Sales, exchanges, leases, mortgages and borrowing.
- 11.62** Estates under \$10,000—Disposition of debts, personal property taxes, etc., by affidavit.
- 11.68** Settlement of estates without administration.

- 11.76 Settlement of estates.
- 11.86 Disclaimer of interests.
- 11.88 Guardianship—Appointment, qualification, removal of guardians and limited guardians.
- 11.92 Guardianship—Powers and duties of guardian or limited guardian.
- 11.93 Uniform gifts to minors act.
- 11.96 Jurisdiction and proceedings.
- 11.98 Trusts.
- 11.108 Trust gift distribution.
- 11.114 Uniform transfers to minors act.

### Chapter 11.02

#### GENERAL PROVISIONS

##### Sections

- 11.02.100 Transfer of shares of record—Dividends.
- 11.02.110 Transfer of shares or securities—Presumption of joint tenancy.
- 11.02.120 Transfer of shares—Liability.

**11.02.100 Transfer of shares of record—Dividends.** Shares of record in the name of a married person may be transferred by such person, such person's agent or attorney, without the signature of such person's spouse. All dividends payable upon any shares of a corporation standing in the name of a married person, shall be paid to such married person, such person's agent or attorney, in the same manner as if such person were unmarried, and it shall not be necessary for the other spouse to join in a receipt therefor; and any proxy or power given by a married person, touching any shares of any corporation standing in such person's name, shall be valid and binding without the signature of the other spouse. [1990 c 180 § 7.]

**11.02.110 Transfer of shares or securities—Presumption of joint tenancy.** Whenever shares or other securities issued by domestic or foreign corporations are or have been issued or transferred to two or more persons in joint tenancy form on the books or records of the corporation, it is presumed in favor of the corporation, its registrar and its transfer agent that the shares or other securities are owned by such persons in joint tenancy and not otherwise. A domestic or foreign corporation or its registrar or transfer agent is not liable for transferring or causing to be transferred on the books of the corporation to or pursuant to the direction of the surviving joint tenant or tenants any share or shares or other securities theretofore issued by the corporation to two or more persons in joint tenancy form on the books or records of the corporation, unless the transfer was made with actual knowledge by the corporation or by its registrar or transfer agent of the existence of any understanding, agreement, condition, or evidence that the shares or securities were held other than in joint tenancy, or of the invalidity of the joint tenancy or a breach of trust by the joint tenants. [1990 c 180 § 8.]

**11.02.120 Transfer of shares—Liability.** Neither a domestic or foreign corporation or its registrar or transfer agent shall be liable for transferring or causing to be transferred on the books of the corporation to or pursuant to the direction of the surviving spouse of a deceased husband or wife any share or shares or other securities theretofore issued by the corporation to the deceased or surviving spouse or both of them if the corporation or its registrar or transfer agent shall be provided with the following:

(1) A copy of an agreement which shall have been entered into between the spouses pursuant to RCW 26.16.120 and certified by the auditor of the county in this state in whose office the same shall have been recorded;

(2) A certified copy of the death certificate of the deceased spouse;

(3) An affidavit of the surviving spouse that:

(a) The shares or other securities constituted community property of the spouses at date of death of the deceased spouse and their disposition is controlled by the community property agreement;

(b) No proceedings have been instituted to contest or set aside or cancel the agreement; and that

(c) The claims of creditors have been paid or provided for. [1990 c 180 § 9.]

### Chapter 11.08

#### ESCHEATS

##### Sections

- 11.08.111 Property of deceased inmates of state institutions—Disposition within two years.
- 11.08.170 Probate of escheat property—Notice to department of revenue.
- 11.08.300 Transfer of property to department of revenue.

**11.08.111 Property of deceased inmates of state institutions—Disposition within two years.** Prior to the expiration of the two-year period provided for in RCW 11.08.101, the superintendent may transfer such money or property in his possession, upon request and satisfactory proof submitted to him, to the following designated persons:

(1) To the personal representative of the estate of such deceased inmate; or

(2) To the successor or successors defined in RCW 11.62.005, where such money and property does not exceed the amount specified in RCW 6.13.030, and the successor or successors shall have furnished proof of death and an affidavit made by said successor or successors meeting the requirements of RCW 11.62.010; or

(3) In the case of money, to the person who may have deposited such money with the superintendent for the use of the decedent, where the sum involved does not exceed one thousand dollars; or

(4) To the department of social and health services, when there are moneys due and owing from such deceased person's estate for the cost of his care and maintenance at a state institution: PROVIDED, That transfer of such money or property may be made to the

person first qualifying under this section and such transfer shall exonerate the superintendent from further responsibility relative to such money or property: AND PROVIDED FURTHER, That upon satisfactory showing the funeral expenses of such decedent are unpaid, the superintendent may pay up to one thousand dollars from said deceased inmate's funds on said obligation. [1990 c 225 § 2; 1973 1st ex.s. c 76 § 1; 1965 c 145 § 11.08.111. Prior: 1959 c 240 § 1; 1951 c 138 § 2.]

*Abandoned inmate personal property: RCW 63.42.030, 63.42.040.*

**11.08.170 Probate of escheat property—Notice to department of revenue.** Escheat property may be probated under the provisions of the probate laws of this state. Whenever such probate proceedings are instituted, whether by special administration or otherwise, the petitioner shall promptly notify the department of revenue in writing thereof on forms furnished by the department of revenue to the county clerks. Thereafter, the department of revenue shall be served with written notice at least twenty days prior to any hearing on proceedings involving the valuation or sale of property, on any petition for the allowance of fees, and on all interim reports, final accounts or petitions for the determination of heirship. Like notice shall be given of the presentation of any claims to the court for allowance. Failure to furnish such notice shall be deemed jurisdictional and any order of the court entered without such notice shall be void. The department of revenue may waive the provisions of this section in its discretion. The department shall be deemed to have waived its right to administer in such probate proceedings under RCW 11.28.120(3) unless application for appointment of the director or the director's designee is made within forty days immediately following receipt of notice of institution of proceedings. [1990 c 225 § 1; 1975 1st ex.s. c 278 § 2; 1965 c 145 § 11.08.170. Prior: 1955 c 254 § 5.]

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

**11.08.300 Transfer of property to department of revenue.** Escheat property may be transferred to the department of revenue under the provisions of RCW 11.62.005 through 11.62.020. The department of revenue shall furnish proof of death and an affidavit made by the department which meets the requirements of RCW 11.62.010 to any person who is indebted to or has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate. Upon receipt of such proof of death and affidavit, the person shall pay the indebtedness or deliver the personal property, or as much of either as is claimed, to the department of revenue pursuant to RCW 11.62.010.

The department of revenue shall file a copy of its affidavit made pursuant to chapter 11.62 RCW with the clerk of the court where any probate administration of the decedent has been commenced, or, if no probate administration has been commenced, then with the clerk of the court of any county provided by law as a place for

probate administration of the estate of such person. The affidavit shall be indexed under the name of the decedent in the probate index upon payment of a fee of two dollars. Any claimant to escheated funds shall have seven years from the filing of the affidavit by the department of revenue within which to file the claim. The claim shall be filed with the clerk of the court where the affidavit of the department of revenue was filed, and a copy served upon the department of revenue, together with twenty days notice of a hearing to be held thereon, and the provisions of RCW 11.08.250 through 11.08.280 shall apply. [1990 c 225 § 3.]

## Chapter 11.12 WILLS

### Sections

11.12.020 Requisites of wills—Foreign wills.

**11.12.020 Requisites of wills—Foreign wills.** (1) Every will shall be in writing signed by the testator or by some other person under the testator's direction in the testator's presence, and shall be attested by two or more competent witnesses, by subscribing their names to the will, or by signing an affidavit that complies with RCW 11.20.020(2), while in the presence of the testator and at the testator's direction or request: PROVIDED, That a last will and testament, executed in the mode prescribed by the law of the place where executed or of the testator's domicile, either at the time of the will's execution or at the time of the testator's death, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state.

(2) This section shall be applied to all wills, whenever executed, including those subject to pending probate proceedings. [1990 c 79 § 1; 1965 c 145 § 11.12.020. Prior: 1929 c 21 § 1; 1917 c 156 § 25; RRS § 1395; prior: Code 1881 § 1319; 1863 p 207 §§ 53, 54; 1860 p 170 §§ 20, 21. FORMER PART OF SECTION; re nuncupative wills, now codified as RCW 11.12.025.]

## Chapter 11.36 QUALIFICATIONS OF PERSONAL REPRESENTATIVES

### Sections

11.36.021 Trustees—Who may serve.

**11.36.021 Trustees—Who may serve.** (1) The following may serve as trustees:

(a) Any suitable persons over the age of eighteen years, if not otherwise disqualified;

(b) Any trust company regularly organized under the laws of this state and national banks when authorized to do so;

(c) Any nonprofit corporation, if the articles of incorporation or bylaws of that corporation permit the action and the corporation is in compliance with all applicable provisions of Title 24 RCW;

(d) Any professional service corporations regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys; and

(e) Any other entity so authorized under the laws of the state of Washington.

(2) The following are disqualified to serve as trustees:

(a) Minors, persons of unsound mind, or persons who have been convicted of any felony or a misdemeanor involving moral turpitude; and

(b) A corporation organized under Title 23B RCW that is not authorized under the laws of the state of Washington to act as a fiduciary. [1991 c 72 § 1; 1985 c 30 § 6. Prior: 1984 c 149 § 9.]

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**Chapter 11.40**

**CLAIMS AGAINST ESTATE**

Sections

11.40.010 Notice to creditors—Manner—Failure to file.

**11.40.010 Notice to creditors—Manner—Failure to file.** Every personal representative shall, after appointment and qualification, give a notice to the creditors of the deceased, stating such appointment and qualification as personal representative and requiring all persons having claims against the deceased to serve the same on the personal representative or the estate's attorney of record, and file an executed copy thereof with the clerk of the court, within four months after the date of the first publication of such notice described in this section or within four months after the date of the filing of the copy of such notice with the clerk of the court, whichever is the later, or within the time otherwise provided in RCW 11.40.013. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of such notice with the clerk of the court is referred to in this chapter as the "four-month time limitation." Such notice shall be given as follows:

(1) The personal representative shall give actual notice, as provided in RCW 11.40.013, to such creditors who become known to the personal representative within such four-month time limitation;

(2) The personal representative shall cause such notice to be published once in each week for three successive weeks in the county in which the estate is being administered; and

(3) The personal representative shall file a copy of such notice with the clerk of the court.

Except as otherwise provided in RCW 11.40.011 or 11.40.013, any claim not filed within the four-month time limitation shall be forever barred, if not already barred by any otherwise applicable statute of limitations. Proof by affidavit of the giving and publication of such notice shall be filed with the court by the personal representative. [1991 c 5 § 1; 1989 c 333 § 1; 1974 ex.s. c

117 § 33; 1967 c 168 § 7; 1965 c 145 § 11.40.010. Prior: 1923 c 142 § 3; 1917 c 156 § 107; RRS § 1477; prior: Code 1881 § 1465; 1860 p 195 § 157; 1854 p 280 § 78.]

**Application—Effective date—1989 c 333:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1989]. This act shall apply to probate proceedings that are open on or are commenced after the effective date, except that section 5 of this act shall apply only to decedents dying after the effective date." [1989 c 333 § 9.] This act consists of the enactment of RCW 11.40.012, 11.40.013, 11.40.014, and 11.40.015, and the 1989 c 333 amendment of RCW 11.40.010, 11.40.011, 11.40.030, and 4.16.200. Section 5 of this act is RCW 11.40.014.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

**Publication of legal notices:** Chapter 65.16 RCW.

**Settlement without intervention, notice to creditors:** RCW 11.68.010.

**Chapter 11.44**

**INVENTORY AND APPRAISEMENT**

Sections

11.44.061 Repealed.  
11.44.066 Duties of personal representative—Assistants—Filing—Copies.

**11.44.061 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**11.44.066 Duties of personal representative—Assistants—Filing—Copies.** Within the time required to file an inventory as provided in RCW 11.44.015, the personal representative shall determine the fair net value, as of the date of the decedent's death, of each item contained in the inventory after deducting the encumbrances, liens, and other secured charges thereon. The personal representative may employ a qualified and disinterested person to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The appraisal may, but need not be, filed in the probate cause: PROVIDED HOWEVER, That upon receipt of a written request for a copy of said inventory and appraisal from any heir, legatee, devisee or unpaid creditor who has filed a claim, or from the department of revenue, the personal representative shall furnish to said person, a true and correct copy thereof. [1990 c 180 § 1; 1974 ex.s. c 117 § 49.]

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

**Estate and transfer tax act:** Chapter 83.100 RCW.

**Chapter 11.56**

**SALES, EXCHANGES, LEASES, MORTGAGES AND BORROWING**

Sections

11.56.030 Sale, lease or mortgage of real estate—Petition—Notice—Hearing.

11.56.280 Borrowing on general credit of estate—Petition—  
Notice—Hearing.

**11.56.030 Sale, lease or mortgage of real estate—Petition—Notice—Hearing.** Whenever it shall appear to the satisfaction of the court that any portion or all of the real property should be sold, mortgaged or leased for the purpose of raising money to pay the debts and obligations of the estate, and the expenses of administration, estate taxes, or for the support of the family, to make distribution, or for such other purposes as the court may deem right and proper, the court may order the sale, lease or mortgage of such portion of the property as appears to the court necessary for the purpose aforesaid. It shall be the duty of the personal representative to present a petition to the court giving a description of all the property of the estate and its character, the amount of the debts, expenses and obligations of the estate and such other things as will tend to assist the court in determining the necessity for the sale, lease or mortgage and the amount thereof. Unless the court shall by order expressly so provide, no notice of the hearing of such petition for sale, lease or mortgage need be given, except as provided in RCW 11.28.240 hereof; if, however, the court should order notice of such hearing, it shall determine upon the kind, character and time thereof. At the hearing of such petition the court may have brought before it such testimony or information as it may see fit to receive, for the purpose of determining whether it should order any of the property of the estate sold, leased or mortgaged. The absence of any allegation in the petition shall not deprive the court of jurisdiction to order said sale, lease or mortgage, and the court may, if it see fit, order such sale, lease or mortgage without any petition having been previously presented. [1990 c 180 § 2; 1965 c 145 § 11.56.030. Prior: 1937 c 28 § 3; 1917 c 156 § 124; RRS § 1494; prior: Code 1881 § 1493; 1854 p 285 § 103.]

**11.56.280 Borrowing on general credit of estate—Petition—Notice—Hearing.** Whenever it shall appear to the satisfaction of the court that money is needed to pay debts of the estate, expenses of administration, or estate taxes, the court may by order authorize the personal representative to borrow such money, on the general credit of the estate, as appears to the court necessary for the purposes aforesaid. The time for repayment, rate of interest and form of note authorized shall be as specified by the court in its order. The money borrowed pursuant thereto shall be an obligation of the estate repayable with the same priority as unsecured claims filed against the estate. It shall be the duty of the personal representative to present a petition to the court giving a description of all the property of the estate and its character, the amount of the debts, expenses and tax obligations and such other things as will tend to assist the court in determining the necessity for the borrowing and the amount thereof. Unless the court shall by order expressly so provide, no notice of the hearing of such petition need be given, except to persons who have requested notice under the provisions of RCW 11.28.240;

if, however, the court should order notice of such hearing, it shall determine upon the kind, character and time thereof. At the hearing of such petition the court may have brought before it such testimony or information as it may see fit to receive, for the foregoing purpose. The absence of any allegation in the petition shall not deprive the court of jurisdiction to authorize such borrowing. [1990 c 180 § 3; 1965 c 145 § 11.56.280.]

*Order of payment of debts: RCW 11.76.110.*

*Powers of executor under nonintervention will: RCW 11.68.040.*

## Chapter 11.62

### ESTATES UNDER \$10,000—DISPOSITION OF DEBTS, PERSONAL PROPERTY TAXES, ETC., BY AFFIDAVIT

#### Sections

11.62.020 Effect of affidavit and proof of death—Discharge and release of transferor—Refusal to pay or deliver—Procedure—False affidavit—Conflicting affidavits—Accountability.

**11.62.020 Effect of affidavit and proof of death—Discharge and release of transferor—Refusal to pay or deliver—Procedure—False affidavit—Conflicting affidavits—Accountability.** The person paying, delivering, transferring, or issuing personal property pursuant to RCW 11.62.010 is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent, unless at the time of such payment, delivery, transfer, or issuance, such person had actual knowledge of the falsity of any statement which is required by RCW 11.62.010(2) as now or hereafter amended to be contained in the successor's affidavit. Such person is not required to see to the application of the personal property, or to inquire into the truth of any matter specified in RCW 11.62.010 (1) or (2), or into the payment of any estate tax liability.

An organization shall not be deemed to have actual knowledge of the falsity of any statement contained in an affidavit made pursuant to RCW 11.62.010(2) as now or hereafter amended until such time as said knowledge shall have been brought to the personal attention of the individual making the transfer, delivery, payment, or issuance of the personal property claimed under RCW 11.62.010 as now or hereafter amended.

If any person to whom an affidavit and proof of death is delivered refuses to pay, deliver, or transfer any personal property, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. If more than one affidavit is delivered with reference to the same personal property, the person to whom an affidavit is delivered may pay, deliver, transfer, or issue any personal property in response to the first affidavit received, provided that proof of death has also been received, or alternately implead such property into court for payment over to the person entitled thereto. Any person to whom payment, delivery, transfer, or issuance of personal property is made pursuant to RCW 11.62.010 as now or

hereafter amended is answerable and accountable therefor to any personal representative of the estate of the decedent or to any other person having a superior right thereto. [1990 c 180 § 4; 1977 ex.s. c 234 § 12; 1974 ex.s. c 117 § 5.]

~~Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.16.083.~~

~~Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.~~

**Chapter 11.68**

**SETTLEMENT OF ESTATES WITHOUT ADMINISTRATION**

Sections

11.68.110 Declaration of completion of probate—Contents.

**11.68.110 Declaration of completion of probate—Contents.** If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration to that effect, which declaration shall state as follows:

(1) The date of the decedent's death, and the decedent's residence at the time of death, whether or not the decedent died testate or intestate, and if testate, the date of the decedent's last will and testament and the date of the order admitting the will to probate;

(2) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

(3) The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(4) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(5) The amount of fees paid or to be paid to each of the following: (a) Personal representative or representatives, (b) lawyer or lawyers, (c) appraiser or appraisers, and (d) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion

of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

Within five days of the date of the filing of the declaration of completion, the personal representative or the representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent (who has not waived notice of said filing, in writing, filed in the cause) together with a notice which shall be substantially as follows:

**CAPTION NOTICE OF FILING OF OF DECLARATION OF COMPLETION CASE OF PROBATE**

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

-----  
Personal Representative

If all heirs, devisees, and legatees of the decedent waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative. [1990 c 180 § 5; 1985 c 30 § 8. Prior: 1984 c 149 § 11; 1977 ex.s. c 234 § 26; 1974 ex.s. c 117 § 23.]

~~Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.~~

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**Effective date, application—Severability—1977 ex.s. c 234:** See notes following RCW 11.16.083.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

### Chapter 11.76

#### SETTLEMENT OF ESTATES

##### Sections

11.76.090 Repealed.  
11.76.095 Distribution of estates to minors.

**11.76.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**11.76.095 Distribution of estates to minors.** When a decree of distribution is made by the court in administration upon a decedent's estate or when distribution is made by a personal representative under a nonintervention will and distribution is ordered under such decree or authorized under such nonintervention will to a person under the age of eighteen years, it shall be required that:

(1) The money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the minor subject to withdrawal only upon the order of the court in the original probate proceeding, or upon said minor's attaining the age of eighteen years and furnishing proof thereof satisfactory to the depository;

(2) A general guardian shall be appointed and qualify and the money or property be paid or delivered to such guardian prior to the discharge of the personal representative in the original probate proceeding;

(3) The provisions of \*RCW 11.76.090 are complied with; or

(4) A custodian be selected and the money or property be transferred to the custodian subject to \*\*chapter 11.93 RCW. [1991 c 193 § 28; 1988 c 29 § 5; 1974 ex.s. c 117 § 12; 1971 c 28 § 3; 1965 c 145 § 11.76.095.]

**Reviser's note:** \*(1) RCW 11.76.090 was repealed by 1991 c 193 § 31, effective July 1, 1991.

\*\* (2) Chapter 11.93 RCW was repealed by 1991 c 193 § 27, effective July 1, 1991. Chapter 11.114 RCW was apparently intended.

**Effective date—Severability—1991 c 193:** See RCW 11.114.903 and 11.114.904.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

### Chapter 11.86

#### DISCLAIMER OF INTERESTS

##### Sections

11.86.041 Disposition of disclaimed interest.  
11.86.075 Repealed.

**11.86.041 Disposition of disclaimed interest.** (1) Unless the instrument creating an interest directs to the contrary, the interest disclaimed shall pass as if the beneficiary had died immediately prior to the date of the

transfer of the interest. The disclaimer shall relate back to this date for all purposes.

(2) Unless the disclaimer directs to the contrary, the beneficiary may receive another interest in the property subject to the disclaimer.

(3) Any future interest taking effect in possession or enjoyment after termination of the interest disclaimed takes effect as if the beneficiary had died prior to the date of the beneficiary's final ascertainment as a beneficiary and the indefeasible vesting of the interest.

(4) The disclaimer is binding upon the beneficiary and all persons claiming through or under the beneficiary.

(5) Unless the instrument creating the interest directs to the contrary, a beneficiary whose interest in a devise or bequest under a will has been disclaimed shall be deemed to have died for purposes of RCW 11.12.110. [1991 c 7 § 1; 1989 c 34 § 4.]

**11.86.075 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 11.88

#### GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS AND LIMITED GUARDIANS

##### Sections

11.88.005 Legislative intent.  
11.88.010 Authority to appoint guardians—Definitions—Venue—Nomination by principal.  
11.88.020 Qualifications.  
11.88.030 Petition—Contents—Hearing.  
11.88.040 Notice and hearing, when required—Service—Procedure.  
11.88.045 Legal counsel and jury trial—Proof.  
11.88.080 Testamentary guardians.  
11.88.090 Guardian ad litem—Appointment—Qualifications—Duties.  
11.88.095 Disposition of guardianship petition.  
11.88.100 Oath and bond of guardian or limited guardian.  
11.88.105 Reduction in amount of bond.  
11.88.107 When bond not required.  
11.88.120 Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor.  
11.88.125 Standby limited guardian or limited guardian.  
11.88.130 Transfer of jurisdiction and venue.  
11.88.140 Termination of guardianship or limited guardianship.  
11.88.150 Administration of deceased incapacitated person's estate.  
11.88.160 Guardianships involving veterans.

**11.88.005 Legislative intent.** It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to

adequately manage their financial affairs. [1990 c 122 § 1; 1977 ex.s. c 309 § 1; 1975 1st ex.s. c 95 § 1.]

**Effective date**—1990 c 122: "This act shall take effect on July 1, 1991." [1990 c 122 § 38.]

**Severability**—1977 ex.s. c 309: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 309 § 18.]

**11.88.010 Authority to appoint guardians—Definitions—Venue—Nomination by principal.** (1) The superior court of each county shall have power to appoint guardians for the persons and/or estates of incapacitated persons, and guardians for the estates of nonresidents of the state who have property in the county needing care and attention.

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

(e) For purposes of giving informed consent for health care pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any person who is (i) incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his or her property or caring for himself or herself, or both, or (ii) incapacitated as defined in (a), (b), or (d) of this subsection.

(f) For purposes of the terms "incompetent," "disabled," or "not legally competent," as those terms are used in the Revised Code of Washington to apply to persons incapacitated under this chapter, those terms shall be interpreted to mean "incapacitated" persons for purposes of this chapter.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of incapacitated persons, who by reason of their incapacity have need for protection and assistance, but who are capable of managing some of their personal and financial affairs. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and restrictions on an incapacitated person to be

placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incapacitated person is domiciled, or if such person resides in a facility supported in whole or in part by local, state, or federal funding sources, in either the county where the facility is located, the county of domicile prior to residence in the supported facility, or the county where a parent or spouse of the alleged incapacitated person is domiciled.

If the alleged incapacitated person's residency has changed within one year of the filing of the petition, any interested person may move for a change of venue for any proceedings seeking the appointment of a guardian or a limited guardian under this chapter to the county of the alleged incapacitated person's last place of residence of one year or more. The motion shall be granted when it appears to the court that such venue would be in the best interests of the alleged incapacitated person and would promote more complete consideration of all relevant matters.

(4) Under RCW 11.94.010, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if guardianship proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(5) When a court imposes a full guardianship for an incapacitated person, the person shall be considered incompetent for purposes of rationally exercising the right to vote and shall lose the right to vote, unless the court specifically finds that the person is rationally capable of exercising the franchise. Imposition of a limited guardianship for an incapacitated person shall not result in the loss of the right to vote unless the court determines that the person is incompetent for purposes of rationally exercising the franchise. [1991 c 289 § 1; 1990 c 122 § 2; 1984 c 149 § 176; 1977 ex.s. c 309 § 2; 1975 1st ex.s. c 95 § 2; 1965 c 145 § 11.88.010. Prior: 1917 c 156 § 195; RRS § 1565; prior: Code 1881 § 1604; 1873 p 314 § 299; 1855 p 15 § 1.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—**Effective dates**—1984 c 149: See notes following RCW 11.02.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**11.88.020 Qualifications.** Any suitable person over the age of eighteen years, or any parent under the age of

eighteen years may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incapacitated person; any trust company regularly organized under the laws of this state and national banks when authorized so to do may act as guardian or limited guardian of the estate of an incapacitated person; and any nonprofit corporation may act as guardian or limited guardian of the person and/or estate of an incapacitated person if the articles of incorporation or bylaws of such corporation permit such action and such corporation is in compliance with all applicable provisions of Title 24 RCW. No person is qualified to serve as a guardian who is

(1) under eighteen years of age except as otherwise provided herein;

(2) of unsound mind;

(3) convicted of a felony or of a misdemeanor involving moral turpitude;

(4) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(5) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(6) a person whom the court finds unsuitable. [1990 c 122 § 3; 1975 1st ex.s. c 95 § 3; 1971 c 28 § 4; 1965 c 145 § 11.88.020. Prior: 1917 c 156 § 196; RRS § 1566.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.  
*Banks and trust companies may act as guardian: RCW 11.36.010.*

**11.88.030 Petition—Contents—Hearing.** (1) Any person or entity may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both, and why no alternative to guardianship is appropriate;

(i) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(j) The requested term of the limited guardianship to be included in the court's order of appointment;

(k) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

(4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

**IMPORTANT NOTICE  
PLEASE READ CAREFULLY**

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE  
----- COUNTY SUPERIOR COURT BY  
----- IF A GUARDIAN IS APPOINTED,  
YOU COULD LOSE ONE OR MORE OF THE  
FOLLOWING RIGHTS:

(1) TO MARRY OR DIVORCE;

(2) TO VOTE OR HOLD AN ELECTED OFFICE;

(3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;

(4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;

(5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;

(6) TO POSSESS A LICENSE TO DRIVE;

(7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;

(8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;

(9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;

(10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN.

(5) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date. [1991 c 289 § 2; 1990 c 122 § 4; 1977 ex.s. c 309 § 3; 1975 1st ex.s. c 95 § 4; 1965 c 145 § 11.88.030. Prior: 1927 c 170 § 1; 1917 c 156 § 197; RRS § 1567; prior: 1909 c 118 § 1; 1903 c 130 § 1.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**Vulnerable elderly person**—*Lack of capacity to consent*—*Guardianship action by department of social and health services*: RCW 74.34.060.

**11.88.040 Notice and hearing, when required**—**Service**—**Procedure**. Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be served personally to the alleged incapacitated person, if over fourteen years of age, and served upon the guardian ad litem.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by

personal service in the manner provided for services of summons, to the following:

(1) The alleged incapacitated person, or minor, if under fourteen years of age;

(2) A parent, if the alleged incapacitated person is a minor, all known children not residing with a notified person, and the spouse of the alleged incapacitated person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incapacitated person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing.

(4) If the petition is by a parent asking for appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition is accompanied by the written consent of a minor of the age of fourteen years or upward, who consents to the appointment of the guardian or limited guardian asked for, or if the petition is by a nonresident guardian of any minor or incapacitated person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

The alleged incapacitated person shall be present in court at the final hearing on the petition: **PROVIDED**, That this requirement may be waived at the discretion of the court for good cause other than mere inconvenience shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incapacitated person and conduct the final hearing in the presence of the alleged incapacitated person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

If presence of the alleged incapacitated person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition. [1991 c 289 § 3; 1990 c 122 § 5; 1984 c 149 § 177; 1977 ex.s. c 309 § 4; 1975 1st ex.s. c 95 § 5; 1969 c 70 § 1; 1965 c 145 § 11.88.040. Prior: 1927 c 170 § 2; 1923 c 142 § 4; 1917 c 156 § 198; RRS § 1568; prior: 1909 c 118 § 2; 1903 c 130 §§ 2, 3.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—**Effective dates**—1984 c 149: See notes following RCW 11.02.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**Waiver of notice**: RCW 11.16.083.

**11.88.045 Legal counsel and jury trial**—**Proof**. (1)(a) Alleged incapacitated individuals shall have the

right to be represented by counsel at any stage in guardianship proceedings. The court shall provide counsel to represent any alleged incapacitated person at public expense when either: (i) The individual is unable to afford counsel, or (ii) the expense of counsel would result in substantial hardship to the individual, or (iii) the individual does not have practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds, the court shall provide counsel and may impose a reimbursement requirement as part of a final order. When, in the opinion of the court, the rights and interests of an alleged or adjudicated incapacitated person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person. Counsel shall be provided as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks shall be presumed by a reviewing court to be inadequate time for consultation and preparation.

(b) Counsel for an alleged incapacitated individual shall act as an advocate for the client and shall not substitute counsel's own judgment for that of the client on the subject of what may be in the client's best interests. Counsel's role shall be distinct from that of the guardian ad litem, who is expected to promote the best interest of the alleged incapacitated individual, rather than the alleged incapacitated individual's expressed preferences.

(c) If an alleged incapacitated person is represented by counsel and does not communicate with counsel, counsel may ask the court for leave to withdraw for that reason. If satisfied, after affording the alleged incapacitated person an opportunity for a hearing, that the request is justified, the court may grant the request and allow the case to proceed with the alleged incapacitated person unrepresented.

(2) During the pendency of any guardianship, any attorney purporting to represent a person alleged or adjudicated to be incapacitated shall petition to be appointed to represent the incapacitated or alleged incapacitated person. Fees for representation described in this section shall be subject to approval by the court pursuant to the provisions of RCW 11.92.180.

(3) The alleged incapacitated person is further entitled upon request to a jury trial on the issues of his or her alleged incapacity. The standard of proof to be applied in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

(4) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a written report from a physician licensed to practice under chapter 18.71 or 18.57 RCW or licensed or certified psychologist selected by the guardian ad litem. The physician or psychologist shall have personally examined and interviewed the alleged incapacitated person within thirty days of the report to the court and shall have expertise in the type of disorder or incapacity the alleged incapacitated person is believed to have. The report shall

contain the following information and shall be set forth in substantially the following format:

(a) The name and address of the examining physician or psychologist;

(b) The education and experience of the physician or psychologist pertinent to the case;

(c) The dates of examinations of the alleged incapacitated person;

(d) A summary of the relevant medical, functional, neurological, psychological, or psychiatric history of the alleged incapacitated person as known to the examining physician or psychologist;

(e) The findings of the examining physician or psychologist as to the condition of the alleged incapacitated person;

(f) Current medications;

(g) The effect of current medications on the alleged incapacitated person's ability to understand or participate in guardianship proceedings;

(h) Opinions on the specific assistance the alleged incapacitated person needs;

(i) Identification of persons with whom the physician or psychologist has met or spoken regarding the alleged incapacitated person.

The court shall not enter an order appointing a guardian or limited guardian until a medical or psychological report meeting the above requirements is filed. [1991 c 289 § 4; 1990 c 122 § 6; 1977 ex.s. c 309 § 5; 1975 1st ex.s. c 95 § 7.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**11.88.080 Testamentary guardians.** When either parent is deceased, the surviving parent of any minor child may, by last will in writing appoint a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the will or afterwards, to continue during the minority of such child or for any less time. Every testamentary guardian of the estate of a child shall give bond in like manner and with like conditions as required by RCW 11.88.100 and 11.88.110, and he or she shall have the same powers and perform the same duties with regard to the person and estate of the minor as a guardian appointed under this chapter. The court shall confirm the parent's testamentary appointment unless the court finds, based upon evidence presented at a hearing on the matter, that the individual appointed in the surviving parent's will is not qualified to serve. [1990 c 122 § 7; 1965 c 145 § 11.88-.080. Prior: 1917 c 156 § 210; RRS § 1580; prior: Code 1881 § 1618; 1860 p 228 § 335.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.88.090 Guardian ad litem—Appointment—Qualifications—Duties.** (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any incapacitated person

interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incapacitated person, who shall be a person found or known by the court to

(a) be free of influence from anyone interested in the result of the proceeding;

(b) have the requisite knowledge, training, or expertise to perform the duties required by this section.

No guardian ad litem need be appointed when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (5) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incapacitated person and shall not overcome the presumption of competency or full legal and civil rights of the alleged incapacitated person.

(3)(a) The superior court of each county shall develop by September 1, 1991, a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardians ad litem only persons whose names appear on the registry, except in extraordinary circumstances.

(b) To be eligible for the registry a person shall:

(i) Present a written statement of qualifications describing the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapters 11.88 and 11.92 RCW; and

(ii) Complete a training program adopted by the court, or, in the absence of a locally adopted program, a candidate for inclusion upon the registry shall have completed a model training program as described in (d) of this subsection.

(c) The superior court of each county shall approve training programs designed to:

(i) Train otherwise qualified human service professionals in those aspects of legal procedure and the requirements of chapters 11.88 and 11.92 RCW with which a guardian ad litem should be familiar;

(ii) Train otherwise qualified legal professionals in those aspects of medicine, social welfare, and social service delivery systems with which a guardian ad litem should be familiar.

(d) The superior court of each county may approve a guardian ad litem training program on or before June 1, 1991. The department of social and health services, aging and adult services administration, shall convene an advisory group to develop a model guardian ad litem training program. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities,

mental illness, aging, legal, court administration, and other interested parties.

(e) Any superior court that has not adopted a guardian ad litem training program by September 1, 1991, shall require utilization of a model program developed by the advisory group as described in (d) of this subsection, to assure that candidates applying for registration as a qualified guardian ad litem shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem.

(4) The guardian ad litem's written statement of qualifications required by RCW 11.88.090(3)(b)(i) shall be made part of the record in each matter in which the person is appointed guardian ad litem.

(5) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

(iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

(iv) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

(v) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

(vi) Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

(vii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

(viii) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.

Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the guardian ad litem, and at least ten days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged incapacitated person and his or her spouse, all children not residing with a notified person, those persons described in (d) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150;

(f) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel.

(6) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to RCW 11.88.090(5)(e) as now or hereafter amended.

(7) The court appointed guardian ad litem shall have the authority, in the event that the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to

give consent for such emergency life-saving medical services on behalf of the alleged incapacitated person.

(8) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incapacitated person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged incapacitated person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(9) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense. [1991 c 289 § 5; 1990 c 122 § 8; 1977 ex.s. c 309 § 6; 1975 1st ex.s. c 95 § 9; 1965 c 145 § 11.88.090. Prior: 1917 c 156 § 211; RRS § 1581; prior: Code 1881 § 1619; 1873 p 318 § 314; 1860 p 228 § 336.]

*Rules of court: Judgment for and settlement of claims of minors: SPR 98.16W.*

*Effective date—1990 c 122:* See note following RCW 11.88.005.

*Severability—1977 ex.s. c 309:* See note following RCW 11.88.005.

*Award in lieu of homestead, appointment for minor children or incapacitated persons: RCW 11.52.014.*

*Costs against guardian of infant plaintiff: RCW 4.84.140.*

*District judge, guardian ad litem if defendant minor, appointment of: RCW 12.04.150.*

*Execution against for costs against infant plaintiff: RCW 4.84.140.*

*Family allowances in probate of property, appointment of guardian ad litem for minor children or incapacitated persons of deceased: Chapter 11.52 RCW.*

*Homestead, awarding to survivor, guardian ad litem appointed for minor children or incapacitated persons of deceased: RCW 11.52.020.*

*Insane persons*

*appearance in civil action: RCW 4.08.060.*

*appointment for civil actions: RCW 4.08.060.*

*Liability for costs against infant plaintiffs: RCW 4.84.140.*

*Minors, for*

*appearance in civil actions: RCW 4.08.050.*

*appointment for civil actions: RCW 4.08.050.*

*district court proceedings: RCW 12.04.150.*

*Registration of land titles, appointment for minors: RCW 65.12.145.*

**11.88.095 Disposition of guardianship petition.** (1) In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

(a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;

(b) The amount of the bond, if any, or a bond review period;

(c) When the next report of the guardian is due;

(d) Whether the guardian ad litem shall continue acting as guardian ad litem;

(e) Whether a review hearing shall be required upon the filing of the inventory;

(f) The authority of the guardian, if any, for investment and expenditure of the ward's estate; and

(g) Names and addresses of those persons described in RCW 11.88.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship.

(3) If the court determines that a limited guardian should be appointed, the order shall specifically set forth the limits by either stating exceptions to the otherwise full authority of the guardian or by stating the specific authority of the guardian.

(4) In determining the disposition of a petition for appointment of a guardian or limited guardian of the estate only, the court shall consider whether the alleged incapacitated person is capable of giving informed medical consent or of making other personal decisions and, if not, whether a guardian or limited guardian of the person of the alleged incapacitated person should be appointed for that purpose. [1991 c 289 § 6; 1990 c 122 § 9.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.88.100 Oath and bond of guardian or limited guardian.** Before letters of guardianship are issued, each guardian or limited guardian shall take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105, file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made, and such bond shall be conditioned substantially as follows:

The condition of this obligation is such, that if the above bound A.B., who has been appointed guardian or limited guardian for C.D., shall faithfully discharge the office and trust of such guardian or limited guardian according to law and shall render a fair and just account of his guardianship or limited guardianship to the superior court of the county of \_\_\_\_\_, from time to time as he shall thereto be required by such court, and comply with all orders of the court, lawfully made, relative to the goods, chattels, moneys, care, management, and education of such incapacitated person, or his or her property, and render and pay to such incapacitated person all moneys, goods, chattels, title papers, and effects which may come into the hands or possession of such guardian or limited guardian, at such time and in such manner as the court may order, then this obligation shall be void, otherwise it shall remain in effect.

The bond shall be for the use of the incapacitated person, and shall not become void upon the first recovery, but may be put in suit from time to time against all

or any one of the obligors, in the name and for the use and benefit of any person entitled by the breach thereof, until the whole penalty is recovered thereon. The court may require an additional bond whenever for any reason it appears to the court that an additional bond should be given.

In all guardianships or limited guardianships of the person, and in all guardianship or limited guardianships of the estate, in which the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond pending filing of an inventory confirming that the estate has total assets of less than three thousand dollars: **PROVIDED**, That the guardian or limited guardian shall swear to report to the court any changes in the total assets of the incapacitated person increasing their value to over three thousand dollars: **PROVIDED FURTHER**, That the guardian or limited guardian shall file a yearly statement showing the monthly income of the incapacitated person if said monthly income, excluding moneys from state or federal benefits, is over the sum of five hundred dollars per month for any three consecutive months. [1990 c 122 § 10; 1983 c 271 § 1; 1977 ex.s. c 309 § 7; 1975 1st ex.s. c 95 § 10; 1965 c 145 § 11.88.100. Prior: 1961 c 155 § 1; 1951 c 242 § 1; 1947 c 145 § 1; 1945 c 41 § 1; 1917 c 156 § 203; Rem. Supp. 1947 § 1573; prior: 1905 c 17 § 1; Code 1881 § 1612; 1860 p 226 § 329.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

*Citation of surety on bond: RCW 11.92.056.*

*Suretyship: Chapter 19.72 RCW.*

**11.88.105 Reduction in amount of bond.** In cases where all or a portion of the estate consisting of cash or securities has been placed in possession of savings and loan associations or banks, trust companies, escrow corporations, or other corporations approved by the court and if a verified receipt signed by the custodian of the funds is filed by the guardian or limited guardian in court stating that such corporations hold the cash or securities subject to order of court, the court may in its discretion dispense with the bond or reduce the amount of the bond by the amount of such deposits. [1990 c 122 § 11; 1975 1st ex.s. c 95 § 11; 1965 c 145 § 11.88.105.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.88.107 When bond not required.** In all cases where a bank or trust company, authorized to act as guardian or limited guardian, or where a nonprofit corporation is authorized under its articles of incorporation to act as guardian or limited guardian, is appointed as guardian or limited guardian, or acts as guardian or limited guardian under an appointment as such heretofore made, no bond shall be required: **PROVIDED**, That in the case of appointment of a nonprofit corporation court approval shall be required before any bond requirement of this chapter may be waived. [1990 c 122 § 12; 1977 ex.s. c 309 § 8; 1975 1st ex.s. c 95 § 12; 1965 c 145 § 11.88.107.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**11.88.120 Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor.**

(1) At any time after establishment of a guardianship or appointment of a guardian, the court may, upon the death of the guardian or limited guardian, or, for other good reason, modify or terminate the guardianship or replace the guardian or limited guardian.

(2) Any person, including an incapacitated person, may apply to the court for an order to modify or terminate a guardianship or to replace a guardian or limited guardian. If applicants are represented by counsel, counsel shall move for an order to show cause why the relief requested should not be granted. If applicants are not represented by counsel, they may move for an order to show cause, or they may deliver a written request to the clerk of the court.

(3) By the next judicial day after receipt of an unrepresented person's request to modify or terminate a guardianship order, or to replace a guardian or limited guardian, the clerk shall deliver the request to the court. The court may (a) direct the clerk to schedule a hearing, (b) appoint a guardian ad litem to investigate the issues raised by the application or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held, or (c) deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous. Any denial of an application without a hearing shall be in writing with the reasons for the denial explained. A copy of the order shall be mailed by the clerk to the applicant, to the guardian, and to any other person entitled to receive notice of proceedings in the matter. Unless within thirty days after receiving the request from the clerk the court directs otherwise, the clerk shall schedule a hearing on the request and mail notice to the guardian, the incapacitated person, the applicant, all counsel of record, and any other person entitled to receive notice of proceedings in the matter.

(4) In a hearing on an application to modify or terminate a guardianship, or to replace a guardian or limited guardian, the court may grant such relief as it deems just and in the best interest of the incapacitated person.

(5) The court may order persons who have been removed as guardians to deliver any property or records belonging to the incapacitated person in accordance with the court's order. Similarly, when guardians have died or been removed and property or records of an incapacitated person are being held by any other person, the court may order that person to deliver it in accordance with the court's order. Disobedience of an order to deliver shall be punishable as contempt of court. [1991 c 289 § 7; 1990 c 122 § 14; 1977 ex.s. c 309 § 9; 1975 1st ex.s. c 95 § 14; 1965 c 145 § 11.88.120. Prior: 1917 c 156 § 209; RRS § 1579; prior: Code 1881 § 1616; 1860 p 227 § 333; 1855 p 17 § 11.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**11.88.125 Standby limited guardian or limited guardian.**

(1) The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incapacitated person, shall file in writing with the court, a notice designating a standby limited guardian or guardian to serve as limited guardian or guardian at the death or legal incapacity of the court-appointed guardian or limited guardian. The notice shall state the name, address, zip code, and telephone number of the designated standby or limited guardian. Notice of the guardian's designation of the standby guardian shall be given to the standby guardian, the incapacitated person and his or her spouse and adult children, any facility in which the incapacitated person resides, and any person entitled to special notice under RCW 11.92.150 or any person entitled to receive pleadings pursuant to RCW 11.88.095(2)(g). Such standby guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incapacity of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the standby guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the standby guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

(2) Letters of guardianship shall be issued to the standby guardian or limited guardian upon filing an oath and posting a bond as required by RCW 11.88.100 as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. Notice of such appointment shall be provided to the standby guardian, the incapacitated person, and any facility in which the incapacitated person resides. The provisions of RCW 11.88.100 through 11.88.110 as now or hereafter amended shall apply to standby guardians and limited guardians.

(3) In addition to the powers of a standby limited guardian or guardian as noted in subsection (1) of this section, the standby limited guardian or guardian shall have the authority to provide timely, informed consent to necessary medical procedures, as authorized in RCW 11.92.040 as now or hereafter amended, if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. [1991 c 289 § 8; 1990 c 122 § 15; 1979 c 32 § 1; 1977 ex.s. c 309 § 10; 1975 1st ex.s. c 95 § 6.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**11.88.130 Transfer of jurisdiction and venue.** The court of any county having jurisdiction of any guardianship or limited guardianship proceeding is authorized to transfer jurisdiction and venue of the guardianship or limited guardianship proceeding to the court of any other county of the state upon application of the guardian, limited guardian, or incapacitated person and such notice to an alleged incapacitated person or other interested party as the court may require. Such transfers of guardianship or limited guardianship proceedings shall be made to the court of a county wherein either the guardian or limited guardian or alleged incapacitated person resides, as the court may deem appropriate, at the time of making application for such transfer. The original order providing for any such transfer shall be retained as a permanent record by the clerk of the court in which such order is entered, and a certified copy thereof together with the original file in such guardianship or limited guardianship proceeding and a certified transcript of all record entries up to and including the order for such change shall be transmitted to the clerk of the court to which such proceeding is transferred. [1990 c 122 § 16; 1975 1st ex.s. c 95 § 15; 1965 c 145 § 11.88.130. Prior: 1955 c 45 § 1.]

Effective date—1990 c 122: See note following RCW 11.88.005.

**11.88.140 Termination of guardianship or limited guardianship.** (1) **TERMINATION WITHOUT COURT ORDER.** A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW 26.28.010 as now or hereafter amended, of any person defined as an incapacitated person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding, subject to subsection (2) of this section;

(b) By an adjudication of capacity or an adjudication of termination of incapacity;

(c) By the death of the incapacitated person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW 11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) **TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF COMPLETION.** A guardianship for the benefit of a minor may be terminated upon the minor's attainment of legal age, as defined in RCW 26.28.010 as now or hereafter amended, by the guardian filing a declaration that states:

(a) The date the minor attained legal age;

(b) That the guardian has paid all of the minor's funds in the guardian's possession to the minor, who has signed a receipt for the funds, and that the receipt has been filed with the court;

(c) That the guardian has completed the administration of the minor's estate and the guardianship is ready to be closed; and

(d) The amount of fees paid or to be paid to each of the following: (i) The guardian, (ii) lawyer or lawyers,

(iii) accountant or accountants; and that the guardian believes the fees are reasonable and does not intend to obtain court approval of the amount of the fees or to submit a guardianship accounting to the court for approval. Subject to the requirement of notice as provided in this section, unless the minor petitions the court either for an order requiring the guardian to obtain court approval of the amount of fees paid or to be paid to the guardian, lawyers, or accountants, or for an order requiring an accounting, or both, within thirty days from the filing of the declaration of completion of guardianship, the guardian shall be automatically discharged without further order of the court. The guardian's powers will cease thirty days after filing the declaration of completion of guardianship. The declaration of completion of guardianship shall, at the time, be the equivalent of an entry of a decree terminating the guardianship, distributing the assets, and discharging the guardian for all legal intents and purposes.

Within five days of the date of filing the declaration of completion of guardianship, the guardian or the guardian's lawyer shall mail a copy of the declaration of completion to the minor together with a notice that shall be substantially as follows:

**CAPTION OF CASE NOTICE OF FILING A  
DECLARATION OF COMPLETION  
OF GUARDIANSHIP**

NOTICE IS GIVEN that the attached Declaration of Completion of Guardianship was filed by the undersigned in the above-entitled court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.; unless you file a petition in the above-entitled court requesting the court to review the reasonableness of the fees, or for an accounting, or both, and serve a copy of the petition on the guardian or the guardian's lawyer, within thirty days after the filing date, the amount of fees paid or to be paid will be deemed reasonable, the acts of the guardian will be deemed approved, the guardian will be automatically discharged without further order of the court and the Declaration of Completion of Guardianship will be final and deemed the equivalent of an order terminating the guardianship, discharging the guardian and decreeing the distribution of the guardianship assets.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place of the hearing, by mail, or by personal service, not less than ten days before the hearing on the petition.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Guardian

If the minor, after reaching legal age, waives in writing the notice required by this section, the guardian will be automatically discharged without further order of the court and the declaration of completion of guardianship will be effective as an order terminating the guardianship without an accounting upon filing the declaration. If the guardian has been required to furnish a bond, and a declaration of completion of guardianship is filed according to this section, any bond furnished by the guardian shall be automatically discharged upon the discharge of the guardian.

(3) **TERMINATION ON COURT ORDER.** A guardianship or limited guardianship may be terminated by court order after such notice as the court may require if the guardianship or limited guardianship is no longer necessary.

The guardian or limited guardian shall, within thirty days of the date of termination, unless the court orders a different deadline for good cause, prepare and file with the court a final verified account of administration. The final verified account of administration shall contain the same information as required for (a) an intermediate verified account of administration of the estate under RCW 11.92.040(2) and (b) an intermediate personal care status report under RCW 11.92.043(2).

(4) **EFFECT OF TERMINATION.** When a guardianship or limited guardianship terminates other than by the death of the incapacitated person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incapacitated person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incapacitated person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incapacitated person's estate shall be determined by the law of decedents' estates. [1991 c 289 § 9; 1990 c 122 § 17; 1977 ex.s. c 309 § 11; 1975 1st ex.s. c 95 § 16; 1965 c 145 § 11.88.140.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

*Procedure on removal or death of guardian or limited guardian:* RCW 11.88.120.

*Settlement of estate upon termination other than by death intestate:* RCW 11.92.053.

**11.88.150 Administration of deceased incapacitated person's estate.** (1) Upon the death of an incapacitated person, a guardian or limited guardian of the estate shall have authority to disburse or commit those funds under the control of the guardian or limited guardian as are prudent and within the means of the estate for the disposition of the deceased incapacitated person's remains. Consent for such arrangement shall be secured according to RCW 68.50.160. If no person authorized by \*RCW 68.50.150 accepts responsibility for giving consent, the guardian or limited guardian of the estate may consent, subject to the provisions of this section and to the known directives of the deceased incapacitated person. Reasonable financial commitments made by a guardian or limited guardian pursuant to this section shall be binding against the estate of the deceased incapacitated person.

(2) Upon the death of an incapacitated person intestate the guardian or limited guardian of his estate has power under the letters issued to him and subject to the direction of the court to administer the estate as the estate of the deceased incapacitated person without further letters unless within forty days after death of the incapacitated person a petition is filed for letters of administration or for letters testamentary and the petition is granted. If the guardian or limited guardian elects to administer the estate under his letters of guardianship or limited guardianship, he shall petition the court for an

order transferring the guardianship or limited guardianship proceeding to a probate proceeding, and upon court approval, the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which was assigned to the guardianship or limited guardianship proceeding. The guardian or limited guardian shall then be authorized to continue administration of the estate without the necessity for any further petition or hearing. Notice to creditors and other persons interested in the estate shall be published and may be combined with the notice of the guardian's or limited guardian's final account. This notice shall be given and published in the manner provided in chapter 11.40 RCW. Upon the hearing, the account may be allowed and the balance distributed to the persons entitled thereto, after the payment of such claims as may be allowed. Liability on the guardian's or limited guardian's bond shall continue until exonerated on settlement of his account, and may apply to the complete administration of the estate of the deceased incapacitated person with the consent of the surety. If letters of administration are granted upon petition filed within forty days after the death of the incapacitated person, the personal representative shall supersede the guardian or limited guardian in the administration of the estate and the estate shall be administered as a decedent's estate as provided in this title, including the publication of notice to creditors and other interested persons and the barring of creditors claims. [1990 c 122 § 18; 1977 ex.s. c 309 § 12; 1975 1st ex.s. c 95 § 17; 1965 c 145 § 11.88.150.]

**\*Reviser's note:** The reference to RCW 68.50.150 appears to be erroneous. RCW 68.50.160 was apparently intended.

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

*Settlement of estate upon termination other than by death intestate:* RCW 11.92.053.

**11.88.160 Guardianships involving veterans.** For guardianships involving veterans see chapter 73.36 RCW. [1990 c 122 § 13.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

## Chapter 11.92

### GUARDIANSHIP—POWERS AND DUTIES OF GUARDIAN OR LIMITED GUARDIAN

#### Sections

11.92.035	Claims.
11.92.040	Duties of guardian or limited guardian in general.
11.92.043	Additional duties.
11.92.050	Intermediate accounts—Hearing—Order.
11.92.053	Settlement of estate upon termination other than by death intestate.
11.92.056	Citation of surety on bond.
11.92.060	Guardian to represent incapacitated person—Compromise of claims—Service of process.
11.92.090	Sale, exchange, lease, or mortgage of property.
11.92.095	Duties of holders of financial assets.
11.92.096	Guardian access to certain held assets.
11.92.100	Petition—Contents.
11.92.110	Sale of real estate.
11.92.115	Return and confirmation of sale.

11.92.130	Performance of contracts.
11.92.140	Court authorization for actions regarding guardianship funds.
11.92.150	Request for special notice of proceedings.
11.92.160	Citation for failure to file account or report.
11.92.170	Removal of property of nonresident incapacitated person.
11.92.180	Compensation and expenses of guardian or limited guardian—Attorney's fees.
11.92.185	Concealed or embezzled property.

**11.92.035 Claims.** (1) **DUTY OF GUARDIAN TO PAY.** A guardian of the estate is under a duty to pay from the estate all just claims against the estate of the incapacitated person, whether they constitute liabilities of the incapacitated person which arose prior to the guardianship or liabilities properly incurred by the guardian for the benefit of the incapacitated person or his or her estate and whether arising in contract or in tort or otherwise, upon allowance of the claim by the court or upon approval of the court in a settlement of the guardian's accounts. The duty of the guardian to pay from the estate shall not preclude the guardian's personal liability for his or her own contracts and acts made and performed on behalf of the estate as it exists according to the common law. If it appears that the estate is likely to be exhausted before all existing claims are paid, preference shall be given to (a) the expenses of administration including guardian's fees, attorneys' fees, and court costs; (b) prior claims for the care, maintenance and education of the incapacitated person and of the person's dependents over other claims. Subject to court orders limiting such powers, a limited guardian of an estate shall have the same authority to pay claims.

(2) **CLAIMS MAY BE PRESENTED.** Any person having a claim against the estate of an incapacitated person, or against the guardian of his or her estate as such, may file a written claim with the court for determination at any time before it is barred by the statute of limitations. After ten days' notice to a guardian or limited guardian, a hearing on the claim shall be held, at which upon proof thereof and after consideration of any defenses or objections by the guardian, the court may enter an order for its allowance and payment from the estate. Any action against the guardian of the estate as such shall be deemed a claim duly filed. [1990 c 122 § 19; 1975 1st ex.s. c 95 § 19; 1965 c 145 § 11.92.035.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

*Actions against guardian: RCW 11.92.060.*

*Claims against estate of deceased incompetent or disabled person: RCW 11.88.150.*

*Disbursement for claims on termination of guardianship or limited guardianship: RCW 11.88.140.*

**11.92.040 Duties of guardian or limited guardian in general.** It shall be the duty of the guardian or limited guardian of an estate:

(1) To file within three months after the guardian's appointment a verified inventory of all the property of the incapacitated person which comes into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within ninety days after the anniversary date of the guardian's or limited guardian's appointment, and also within thirty days after termination of the appointment, unless the court for good cause orders a different deadline to file following termination, a written verified account of the administration, which account shall contain at least the following information:

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets;

(3) The court in its discretion may allow reports at intervals of up to thirty-six months for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;

(4) To protect and preserve the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be

filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incapacitated person that a specific property be used by the incapacitated person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court no later than the filing of the inventory for an order authorizing disbursements on behalf of the incapacitated person: PROVIDED, HOWEVER, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, or if the guardian or limited guardian of the estate has the care and custody of the incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof. [1991 c 289 § 10; 1990 c 122 § 20; 1985 c 30 § 9. Prior: 1984 c 149 § 12; 1979 c 32 § 2; 1977 ex.s. c 309 § 13; 1975 1st ex.s. c 95 § 20; 1965 c 145 § 11.92.040; prior: 1957 c 64 § 1; 1955 c 205 § 15; 1941 c 83 § 1; 1917 c 156 § 205; Rem. Supp. 1941 § 1575; prior: 1895 c 42 § 1; Code 1881 § 1614.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**Short title**—**Application**—**Purpose**—**Severability**—1985 c 30: See RCW 11.02.900 through 11.02.903.

**Severability**—**Effective dates**—1984 c 149: See notes following RCW 11.02.005.

**Severability**—1977 ex.s. c 309: See note following RCW 11.88.005.

**Compulsory school attendance law, duty to comply with:** RCW 28A.27.010.

*Disabled person, defined:* RCW 11.88.010.

**11.92.043 Additional duties.** It shall be the duty of the guardian or limited guardian of the person:

(1) To file within three months after appointment a personal care plan for the incapacitated person which shall include (a) an assessment of the incapacitated person's physical, mental, and emotional needs and of such person's ability to perform or assist in activities of daily living, and (b) the guardian's specific plan for meeting the identified and emerging personal care needs of the incapacitated person.

(2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW 11.92.040, a report on the status of the incapacitated person, which shall include:

(a) The address and name of the incapacitated person and all residential changes during the period;

(b) The services or programs which the incapacitated person receives;

(c) The medical status of the incapacitated person;

(d) The mental status of the incapacitated person;

(e) Changes in the functional abilities of the incapacitated person;

(f) Activities of the guardian for the period;

(g) Any recommended changes in the scope of the authority of the guardian;

(h) The identity of any professionals who have assisted the incapacitated person during the period.

(3) To report to the court within thirty days any substantial change in the incapacitated person's condition, or any changes in residence of the incapacitated person.

(4) Consistent with the powers granted by the court, to care for and maintain the incapacitated person in the setting least restrictive to the incapacitated person's freedom and appropriate to the incapacitated person's personal care needs, assert the incapacitated person's rights and best interests, and if the incapacitated person is a minor or where otherwise appropriate, to see that the incapacitated person receives appropriate training and education and that the incapacitated person has the opportunity to learn a trade, occupation, or profession.

(5) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the incapacitated person, except in the case of a limited guardian where such power is not expressly provided for in the order of appointment or subsequent modifying order as provided in RCW 11.88.125 as now or hereafter amended, the standby guardian or standby limited guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. No guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incapacitated person who is unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapter 71.05 or 72.23 RCW are followed. Nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

(a) Therapy or other procedure which induces convulsion;

(b) Surgery solely for the purpose of psychosurgery;

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian, limited guardian, or standby guardian who believes these procedures are necessary for the proper care and maintenance of the incapacitated person shall petition the court for an order unless the court has previously approved the procedure within the past thirty days. The court may order the procedure only after an attorney is appointed in accordance with RCW 11.88.045 if no attorney has previously appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040. [1991 c 289 § 11; 1990 c 122 § 21.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

#### **11.92.050 Intermediate accounts—Hearing—**

**Order.** (1) Upon the filing of any intermediate guardianship or limited guardianship account required by statute, or of any intermediate account required by court rule or order, the guardian or limited guardian may petition the court for an order settling his account with regard to any and all receipts, expenditures and investments made and acts done by the guardian or limited guardian to the date of said interim report. Upon such petition being filed, the court may in its discretion, where the size or condition of the estate warrants it, set a date for the hearing of such petition and require the service of the petition and a notice of such hearing as provided in RCW 11.88.040 as now or hereafter amended; and, in the event such a hearing be ordered, the court shall also appoint a guardian ad litem, whose duty it shall be to investigate the report of the guardian or limited guardian of the estate and to advise the court thereon at said hearing, in writing. At such hearing on said report of the guardian or limited guardian, if the court be satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his trust with relation to such receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account, and such order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after said incapacitated person attains his majority any such interim account may be challenged by said incapacitated person on the ground of fraud.

(2) The procedure established in subsection (1) of this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under RCW 11.92.043. [1990 c 122 § 23; 1975 1st ex.s. c 95 § 21; 1965 c 145 § 11.92.050. Prior: 1943 c 29 § 1; Rem. Supp. 1943 § 1575-1.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.92.053 Settlement of estate upon termination other than by death intestate.** Within ninety days after the termination of a guardianship for any reason other than the death of the incapacitated person intestate, the guardian or limited guardian of the estate shall petition the court for an order settling his account as filed in accordance with RCW 11.92.040(2) with regard to any and all receipts, expenditures and investments made and acts done by the guardian to the date of said termination. Upon such petition being filed, the court shall set a date for the hearing of such petition after notice has been given in accordance with RCW 11.88.040. Any person interested may file objections to such petition or may appear at the time and place fixed for the hearing thereof and present his objections thereto. The court may take such testimony as it deems proper or necessary to determine whether an order settling the account should be issued and the transactions of the guardian be approved.

At such hearing on said petition of the guardian or limited guardian, if the court be satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian has in all respects discharged his trust with relation to such receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account, and such order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order: **PROVIDED**, That within one year after said incompetent attains his majority any such account may be challenged by the incapacitated person on the ground of fraud. [1990 c 122 § 24; 1965 c 145 § 11.92.053.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

*Administration of deceased incompetent's estate: RCW 11.88.150.*

*Procedure on removal or death of guardian—Delivery of estate to successor: RCW 11.88.120.*

*Termination of guardianship: RCW 11.88.140.*

**11.92.056 Citation of surety on bond.** If, at any hearing upon a petition to settle the account of any guardian or limited guardian, it shall appear to the court that said guardian or limited guardian has not fully accounted or that said account should not be settled, the court may continue said hearing to a day certain and may cite the surety or sureties upon the bond of said guardian or limited guardian to appear upon the date fixed in said citation and show cause why the account should not be disapproved and judgment entered for any deficiency against said guardian or limited guardian and the surety or sureties upon his or her bond. Said citation shall be personally served upon said surety or sureties in the manner provided by law for the service of summons in civil actions and shall be served not less than twenty days previous to said hearing. At said hearing any interested party, including the surety so cited, shall have the right to introduce any evidence which shall be material to the matter before the court. If, at said hearing, the final account of said guardian or limited guardian shall not be approved and the court shall find that said

guardian or limited guardian is indebted to the incapacitated person in any amount, said court may thereupon enter final judgment against said guardian or limited guardian and the surety or sureties upon his or her bond, which judgment shall be enforceable in the same manner and to the same extent as judgments in ordinary civil actions. [1990 c 122 § 25; 1975 1st ex.s. c 95 § 22; 1965 c 145 § 11.92.056.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.92.060 Guardian to represent incapacitated person—Compromise of claims—Service of process.**

(1) **GUARDIAN MAY SUE AND BE SUED.** When there is a guardian of the estate, all actions between the incapacitated person or the guardian and third persons in which it is sought to charge or benefit the estate of the incapacitated person shall be prosecuted by or against the guardian of the estate as such. The guardian shall represent the interests of the incapacitated person in the action and all process shall be served on him or her. A guardian or limited guardian of the estate shall report to the court any action commenced against the incapacitated person and shall secure court approval prior to initiating any legal action in the name of the incapacitated person.

(2) **JOINDER, AMENDMENT AND SUBSTITUTION.** When the guardian of the estate is under personal liability for his or her own contracts and acts made and performed on behalf of the estate the guardian may be sued both as guardian and in his or her personal capacity in the same action. Misnomer or the bringing of the action by or against the incapacitated person shall not be grounds for dismissal of the action and leave to amend or substitute shall be freely granted. If an action was commenced by or against the incapacitated person before the appointment of a guardian of his or her estate, such guardian when appointed may be substituted as a party for the incapacitated person. If the appointment of the guardian of the estate is terminated, his or her successor may be substituted; if the incapacitated person dies, his or her personal representative may be substituted; if the incapacitated person is no longer incapacitated the person may be substituted.

(3) **GARNISHMENT, ATTACHMENT AND EXECUTION.** When there is a guardian of the estate, the property and rights of action of the incapacitated person shall not be subject to garnishment or attachment, except for the foreclosure of a mortgage or other lien, and execution shall not issue to obtain satisfaction of any judgment against the incapacitated person or the guardian of the person's estate as such.

(4) **COMPROMISE BY GUARDIAN.** Whenever it is proposed to compromise or settle any claim by or against the incapacitated person or the guardian as such, whether arising as a result of personal injury or otherwise, and whether arising before or after appointment of a guardian, the court on petition of the guardian of the estate, if satisfied that such compromise or settlement will be for the best interests of the incapacitated person, may enter an order authorizing the settlement or compromise be made.

(5) **LIMITED GUARDIAN.** Limited guardians may serve and be served with process or actions on behalf of the incapacitated person, but only to the extent provided for in the court order appointing a limited guardian. [1990 c 122 § 26; 1975 1st ex.s. c 95 § 23; 1965 c 145 § 11.92.060. Prior: 1917 c 156 § 206; RRS § 1576; prior: 1903 c 100 § 1; Code 1881 § 1611; 1860 p 226 § 328.]

**Rules of court:** *SPR 98.08W, 98.10W, 98.16W.*

**Effective date**—1990 c 122: See note following RCW 11.88.005.  
*Action against guardian deemed claim:* RCW 11.92.035.

**11.92.090 Sale, exchange, lease, or mortgage of property.** Whenever it shall appear to the satisfaction of a court by the petition of any guardian or limited guardian, that it is necessary or proper to sell, exchange, lease, mortgage, or grant an easement, license or similar interest in any of the real or personal property of the estate of the incapacitated person for the purpose of paying debts or for the care, support and education of the incapacitated person, or to redeem any property of the incapacitated person's estate covered by mortgage or other lien, or for the purpose of making any investments, or for any other purpose which to the court may seem right and proper, the court may make an order directing such sale, exchange, lease, mortgage, or grant of easement, license or similar interest of such part or parts of the real or personal property as shall to the court seem proper. [1990 c 122 § 27; 1975 1st ex.s. c 95 § 24; 1965 c 145 § 11.92.090. Prior: 1917 c 156 § 212; RRS § 1582; prior: Code 1881 § 1620; 1855 p 17 § 14.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.92.095 Duties of holders of financial assets.** (1) All banks and trust companies as defined in RCW 30.04.010, all savings banks as defined in RCW 32.04.020, all savings and loan associations as defined in \*RCW 31.12.005, all insurance companies holding a certificate of authority under chapter 48.05 RCW, or any agent who constitutes a salesperson or broker-dealer of securities under the definitions of RCW 21.20.005 shall, upon receipt of documentation that a guardian has been appointed and has authority over assets held by a client or depositor of the company or agent, provide the guardian access and control over the asset; and shall at that time forward a report to the court which includes the following: (a) Cause number; (b) name of the incapacitated person; (c) account number or numbers; (d) name and address of client or depositor owning assets; (e) name of the guardian being provided assets or access to assets; (f) value of the asset or assets; and (g) the date the guardian assumed control over the assets. The report shall be signed by a representative of the agent or company and sent by the individual or organization to the clerk of the court.

(2) Any company or agent described in subsection (1) of this section that provides a guardian with access to a safe deposit box shall make an inventory of the contents of the box and attach this inventory to the report sent to the clerk of the court before releasing the contents of the box to the guardian. [1990 c 122 § 22.]

\*Reviser's note: The reference to RCW 31.12.005 appears to be erroneous. RCW 33.04.005 was apparently intended.

Effective date—1990 c 122: See note following RCW 11.88.005.

**11.92.096 Guardian access to certain held assets.** (1) All financial institutions as defined in RCW 30.22.040(12), all insurance companies holding a certificate of authority under chapter 48.05 RCW, or any agent who constitutes a salesperson or broker-dealer of securities under the definitions of RCW 21.20.005 (hereafter individually and collectively referenced as "institution") shall provide the guardian access and control over the asset(s) described in (a)(vii) of this subsection, including but not limited to delivery of the asset to the guardian, upon receipt of the following:

(a) An affidavit containing as an attachment a true and correct copy of the guardian's letters of guardianship and stating:

(i) That as of the date of the affidavit, the affiant is a duly appointed guardian with authority over assets held by the institution but owned or subject to withdrawal or delivery to a client or depositor of the institution;

(ii) The cause number of the guardianship;

(iii) The name of the incapacitated person and the name of the client or depositor (which names shall be the same);

(iv) The account or the safety deposit box number or numbers;

(v) The address of the client or depositor;

(vi) The name and address of the affiant-guardian being provided assets or access to assets;

(vii) A description of and the value of the asset or assets, or, where the value cannot be readily ascertained, a reasonable estimate thereof, and a statement that the guardian receives delivery or control of each asset solely in its capacity as guardian;

(viii) The date the guardian assumed control over the assets; and

(ix) That a true and correct copy of the letters of guardianship duly issued by a court to the guardian is attached to the affidavit; and

(b) An envelope, with postage prepaid, addressed to the clerk of the court issuing the letters of guardianship. The affidavit shall be sent in the envelope by the institution to the clerk of the court together with a statement signed by an agent of the institution that the description of the asset set forth in the affidavit appears to be accurate, and confirming in the case of cash assets, the value of the asset.

(2) Any guardian provided with access to a safe deposit box pursuant to subsection (1) of this section shall make an inventory of the contents of the box and attach this inventory to the affidavit before the affidavit is sent to the clerk of the court and before the contents of the box are released to the guardian. Any inventory shall be prepared in the presence of an employee of the institution and the statement of the institution required under subsection (1) of this section shall include a statement executed by the employee that the inventory appears to be accurate. The institution may require payment by the guardian of any fees or charges then due in connection with the asset or account and of a reasonable fee for

witnessing preparation of the inventory and preparing the statement required by this subsection or subsection (1) of this section.

(3) Any institution to which an affidavit complying with subsection (1) of this section is submitted may rely on the affidavit without inquiry and shall not be subject to any liability of any nature whatsoever to any person whatsoever, including but not limited to the institution's client or depositor or any other person with an ownership or other interest in or right to the asset, for the reliance or for providing the guardian access and control over the asset, including but not limited to delivery of the asset to the guardian. [1991 c 289 § 13.]

**11.92.100 Petition—Contents.** Such application shall be by petition, verified by the oath of the guardian or limited guardian, and shall substantially set forth:

(1) The value and character of all personal estate belonging to the incapacitated person that has come to the knowledge or possession of such guardian or limited guardian.

(2) The disposition of such personal estate.

(3) The amount and condition of the incapacitated person's personal estate, if any, dependent upon the settlement of any estate, or the execution of any trust.

(4) The annual income of the real estate of the incapacitated person.

(5) The amount of rent received and the application thereof.

(6) The proposed manner of reinvesting the proceeds of the sale, if asked for that purpose.

(7) Each item of indebtedness, or the amount and character of the lien, if the sale is requested for the liquidation thereof.

(8) The age of the incapacitated person, where and with whom residing.

(9) All other facts connected with the estate and condition of the incapacitated person necessary to enable the court to fully understand the same. If there is no personal estate belonging to the incapacitated person in possession or expectancy, and none has come into the hands of such guardian or limited guardian, and no rents have been received, the fact shall be stated in the application. [1990 c 122 § 28; 1975 1st ex.s. c 95 § 25; 1965 c 145 § 11.92.100. Prior: 1917 c 156 § 213; RRS § 1583; prior: Code 1881 § 1621; 1860 p 228 § 338; 1855 p 17 § 15.]

Effective date—1990 c 122: See note following RCW 11.88.005.

**11.92.110 Sale of real estate.** The order directing the sale of any of the real property of the estate of the incapacitated person shall specify the particular property affected and the method, whether by public or private sale or by negotiation, and terms thereof, and with regard to the procedure and notices to be employed in conducting such sale, the provisions of RCW 11.56.060, 11.56.070, 11.56.080, and 11.56.110 shall be followed unless the court otherwise directs. [1990 c 122 § 29; 1975 1st ex.s. c 95 § 26; 1965 c 145 § 11.92.110. Prior: 1917 c 156 § 214; RRS § 1524; prior: Code 1881 § 1623; 1860 p 229 § 340.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**11.92.115 Return and confirmation of sale.** The guardian or limited guardian making any sale of real estate, either at public or private sale or sale by negotiation, shall within ten days after making such sale file with the clerk of the court his return of such sale, the same being duly verified. At any time after the expiration of ten days from the filing of such return, the court may, without notice, approve and confirm such sale and direct proper instruments of transfer to be executed and delivered. Upon the confirmation of any such sale, the court shall direct the guardian or limited guardian to make, execute and deliver instruments conveying the title to the person to whom such property may be sold and such instruments of conveyance shall be deemed to convey all the estate, rights and interest of the incapacitated person and of the person's estate. In the case of a sale by negotiation the guardians or limited guardians shall publish a notice in one issue of a legal newspaper published in the county in which the estate is being administered; the substance of such notice shall include the legal description of the property sold, the selling price and the date after which the sale may be confirmed: **PROVIDED**, That such confirmation date shall be at least ten days after such notice is published. [1990 c 122 § 30; 1975 1st ex.s. c 95 § 27; 1965 c 145 § 11.92.115.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**11.92.130 Performance of contracts.** If any person who is bound by contract in writing to perform shall become incapacitated before making the performance, the court having jurisdiction of the guardianship or limited guardianship of such property may, upon application of the guardian or limited guardian of the incapacitated person, or upon application of the person claiming to be entitled to the performance, make an order authorizing and directing the guardian or limited guardian to perform such contract. The application and the proceedings, shall, as nearly as may be, be the same as provided in chapter 11.60 RCW. [1990 c 122 § 31; 1975 1st ex.s. c 95 § 29; 1965 c 145 § 11.92.130. Prior: 1923 c 142 § 5; RRS § 1585a.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**11.92.140 Court authorization for actions regarding guardianship funds.** The court, upon the petition of a guardian of the estate of an incapacitated person other than the guardian of a minor, and after such notice as the court directs and other notice to all persons interested as required by chapter 11.96 RCW, may authorize the guardian to take any action, or to apply funds not required for the incapacitated person's own maintenance and support, in any fashion the court approves as being in keeping with the incapacitated person's wishes so far as they can be ascertained and as designed to minimize insofar as possible current or prospective state or federal income and estate taxes, permit entitlement under

otherwise available federal or state medical or other assistance programs, and to provide for gifts to such charities, relatives, and friends as would be likely recipients of donations from the incapacitated person.

The action or application of funds may include but shall not be limited to the making of gifts, to the conveyance or release of the incapacitated person's contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety, to the exercise or release of the incapacitated person's powers as donee of a power of appointment, the making of contracts, the creation of revocable or irrevocable trusts of property of the incapacitated person's estate which may extend beyond the incapacitated person's disability or life, the establishment of custodianships for the benefit of a minor under \*chapter 11.93 RCW, the Washington uniform transfers to minors act, the exercise of options of the incapacitated person to purchase securities or other property, the exercise of the incapacitated person's right to elect options and to change beneficiaries under insurance and annuity policies and the surrendering of policies for their cash value, the exercise of the incapacitated person's right to any elective share in the estate of the incapacitated person's deceased spouse, and the renunciation or disclaimer of any interest acquired by testate or intestate succession or by inter vivos transfer.

The guardian in the petition shall briefly outline the action or application of funds for which approval is sought, the results expected to be accomplished thereby and the savings expected to accrue. The proposed action or application of funds may include gifts of the incapacitated person's personal or real property. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the incapacitated person, or may be made to individuals or charities in which the incapacitated person is believed to have an interest. Gifts may or may not, in the discretion of the court, be treated as advancements to donees who would otherwise inherit property from the incapacitated person under the incapacitated person's will or under the laws of descent and distribution. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the incapacitated person insofar as the intentions can be ascertained, and if the incapacitated person's intentions cannot be ascertained, the incapacitated person will be presumed to favor reduction in the incidence of the various forms of taxation and the partial distribution of the incapacitated person's estate as provided in this section. The guardian shall not, however, be required to include as a beneficiary any person whom there is reason to believe would be excluded by the incapacitated person. No guardian may be required to file a petition as provided in this section, and a failure or refusal to so petition the court does not constitute a breach of the guardian's fiduciary duties. [1991 c 193 § 32; 1990 c 122 § 32; 1985 c 30 § 10. Prior: 1984 c 149 § 13.]

**\*Reviser's note:** Chapter 11.93 RCW was repealed by 1991 c 193 § 27, effective July 1, 1991. Chapter 11.114 RCW was apparently intended.

**Effective date—Severability—1991 c 193:** See RCW 11.114.903 and 11.114.904.

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

#### **11.92.150 Request for special notice of proceedings.**

At any time after the issuance of letters of guardianship in the estate of any person and/or incapacitated person, any person interested in the estate, or in the incapacitated person, or any relative of the incapacitated person, or any authorized representative of any agency, bureau, or department of the United States government from or through which any compensation, insurance, pension or other benefit is being paid, or is payable, may serve upon the guardian or limited guardian, or upon the attorney for the guardian or limited guardian, and file with the clerk of the court where the guardianship or limited guardianship of the person and/or estate is pending, a written request stating the specific actions of which the applicant requests advance notice. Where the notice does not specify matters for which notice is requested, the guardian or limited guardian shall provide copies of all documents filed with the court and advance notice of his or her application for court approval of any action in the guardianship.

The request for special written notice shall designate the name, address and post office address of the person upon whom the notice is to be served and no service shall be required under this section and RCW 11.92.160 as now or hereafter amended other than in accordance with the designation unless and until a new designation has been made.

When any account, report, petition, or proceeding is filed in the estate of which special written notice is requested, the court shall fix a time for hearing which shall allow at least ten days for service of the notice before the hearing; and notice of the hearing shall be served upon the person designated in the written request at least ten days before the date fixed for the hearing. The service may be made by leaving a copy with the person designated, or that person's authorized representative, or by mailing through the United States mail, with postage prepaid to the person and place designated. [1990 c 122 § 33; 1985 c 30 § 11. Prior: 1984 c 149 § 14; 1975 1st ex.s. c 95 § 30; 1969 c 18 § 1; 1965 c 145 § 11.92.150; prior: 1925 ex.s. c 104 § 1; RRS § 1586-1.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**11.92.160 Citation for failure to file account or report.** Whenever any request for special written notice is served as provided in this section and RCW 11.92.150 as now or hereafter amended, the person making such request may, upon failure of any guardian or limited

guardian for any incapacitated person, to file any account or report required by law, petition the court administering such estate for a citation requiring such guardian or limited guardian to file such report or account, or to show cause for failure to do so, and thereupon the court shall issue such citation and hold a hearing thereon and enter such order as is required by the law and the facts. [1990 c 122 § 34; 1975 1st ex.s. c 95 § 31; 1965 c 145 § 11.92.160. Prior: 1925 ex.s. c 104 § 2; RRS § 1586-2.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

*Attorney's fee to contestant of erroneous account or report:* RCW 11.76.070.

**11.92.170 Removal of property of nonresident incapacitated person.** Whenever it is made to appear that it would be in the best interests of the incapacitated person, the court may order the transfer of property in this state to a guardian or limited guardian of the estate of the incapacitated person appointed in another jurisdiction, or to a person or institution having similar authority with respect to the incapacitated person. [1990 c 122 § 35; 1977 ex.s. c 309 § 16; 1975 1st ex.s. c 95 § 32; 1965 c 145 § 11.92.170. Prior: 1917 c 156 § 217; RRS § 1587; prior: Code 1881 § 1628; 1873 p 320 § 323.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

**11.92.180 Compensation and expenses of guardian or limited guardian—Attorney's fees.** A guardian or limited guardian shall be allowed such compensation for his or her services as guardian or limited guardian as the court shall deem just and reasonable. Guardians and limited guardians shall not be compensated at county or state expense. Additional compensation may be allowed for other administrative costs, including services of an attorney and for other services not provided by the guardian or limited guardian. Where a guardian or limited guardian is an attorney, the guardian or limited guardian shall separately account for time for which compensation is requested for services as a guardian or limited guardian as contrasted to time for which compensation for legal services provided to the guardianship is requested. In all cases, compensation of the guardian or limited guardian and his or her expenses including attorney's fees shall be fixed by the court and may be allowed at any annual or final accounting; but at any time during the administration of the estate, the guardian or limited guardian or his or her attorney may apply to the court for an allowance upon the compensation or necessary expenses of the guardian or limited guardian and for attorney's fees for services already performed. If the court finds that the guardian or limited guardian has failed to discharge his or her duties as such in any respect, it may deny the guardian any compensation whatsoever or may reduce the compensation which would otherwise be allowed. [1991 c 289 § 12; 1990 c 122 § 36; 1975 1st ex.s. c 95 § 33; 1965 c 145 § 11.92.180. Prior: 1917 c 156 § 216; RRS § 1586; prior: Code 1881 § 1627; 1855 p 19 § 25.]

*Rules of court: SPR 98.12W.*

**Effective date**—1990 c 122: See note following RCW 11.88.005.

**11.92.185 Concealed or embezzled property.** The court shall have authority to bring before it, in the manner prescribed by RCW 11.48.070, any person or persons suspected of having in his or her possession or having concealed, embezzled, conveyed or disposed of any of the property of the estate of incapacitated persons subject to administration under this title. [1990 c 122 § 37; 1975 1st ex.s. c 95 § 34; 1965 c 145 § 11.92.185.]

**Effective date**—1990 c 122: See note following RCW 11.88.005.

### Chapter 11.93

#### UNIFORM GIFTS TO MINORS ACT

##### Sections

11.93.010 through 11.93.080 Repealed.  
11.93.900 through 11.93.920 Repealed.

**11.93.010 through 11.93.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**11.93.900 through 11.93.920 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 11.96

#### JURISDICTION AND PROCEEDINGS

(Formerly: Appeals)

##### Sections

11.96.070 Persons entitled to judicial proceedings for declaration of rights or legal relations regarding trust or estate.

**11.96.070 Persons entitled to judicial proceedings for declaration of rights or legal relations regarding trust or estate.** A trustor, grantor, personal representative, trustee, or other fiduciary, creditor, devisee, legatee, heir, or trust beneficiary interested in the administration of a trust, or the attorney general in the case of a charitable trust under RCW 11.110.120, or of the estate of a decedent, incompetent, or disabled person, may have a judicial proceeding for the declaration of rights or legal relations in respect to the trust or estate:

- (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;
- (2) To direct the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity;
- (3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings;
- (4) To confer upon the personal representatives or trustees any necessary or desirable powers not otherwise granted in the instrument or given by law that the court determines are not inconsistent with the provisions or purposes of the will or trust;

(5) To amend or conform the will or the trust instrument in the manner required to qualify the gift thereunder for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest; or

(6) To amend or conform the will or the trust instrument in the manner required to qualify any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code as required by final regulations and rulings of the United States treasury department or internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest; or

(7) To resolve any other matter in this title referencing this judicial proceedings section.

The provisions of this chapter apply to disputes arising in connection with estates of incompetents or disabled persons unless otherwise covered by chapters 11.88 and 11.92 RCW. The provisions of this chapter shall not supersede the otherwise applicable provisions and procedures of chapter 11.24, 11.28, 11.40, 11.52, 11.56, or 11.60 RCW with respect to any rights or legal obligations that are subject to those chapters. [1990 c 179 § 1; 1988 c 29 § 6; 1985 c 31 § 8. Prior: 1984 c 149 § 48.]

**Severability—Effective dates**—1984 c 149: See notes following RCW 11.02.005.

### Chapter 11.98

#### TRUSTS

##### Sections

11.98.080 Consolidation of trusts.  
11.98.170 Designation of trustee as beneficiary of life insurance policy or retirement plan—Determination of proper recipient of proceeds—Definitions—Beneficiary designations executed before January 1, 1985, not invalidated.

**11.98.080 Consolidation of trusts.** (1) Two or more trusts may be consolidated if:

- (a) The trusts so provide; or
- (b) Whether provided in the trusts or not, in accordance with subsection (2) of this section, if all interested persons consent as provided in subsection (2)(b) of this section and the requirements of subsection (1)(d) of this section are satisfied; or
- (c) Whether provided in the trusts or not, in accordance with subsection (3) of this section if the requirements of subsection (1)(d) of this section are satisfied;
- (d) Consolidation under subsection (2) or (3) of this section is permitted only if:

(i) The dispositive provisions of each trust to be consolidated are substantially similar;

(ii) Consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated; and

(iii) Consolidation would facilitate administration of the trusts and would not materially impair the interests of the beneficiaries;

(e) Trusts may be consolidated whether created *inter vivos* or by will, by the same or different instruments, by the same or different trustors, whether the trustees are the same, and regardless of where the trusts were created or administered.

(2) The trustees of two or more trusts may consolidate the trusts on such terms and conditions as appropriate without court approval as provided in RCW 11.96.170.

(a) The trustee shall give written notice of proposed consolidation by personal service or by certified mail to the beneficiaries of every trust affected by the consolidation as provided in RCW 11.96.100 and 11.96.110 and to any trustee of such trusts who does not join in the notice. The notice shall: (i) State the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be consolidated; (iii) include a statement of assets and liabilities of each trust to be consolidated, dated within ninety days of the notice; (iv) fully describe the terms and manner of consolidation; and (v) state the reasons supporting the requirements of subsection (1)(d) of this section. The notice shall advise the recipient of the right to petition for a judicial determination of the proposed consolidation as provided in subsection (3) of this section. The notice shall include a form on which consent or objection to the proposed consolidation may be indicated.

(b) If the trustee receives written consent to the proposed consolidation from all persons entitled to notice as provided in RCW 11.96.100 and 11.96.110, the trustee may consolidate the trusts as provided in the notice. Any person dealing with the trustee of the resulting consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the consolidation under this section.

(3)(a) Any trustee, beneficiary, or special representative may petition the superior court of the county in which the principal place of administration of a trust is located for an order consolidating two or more trusts under chapter 11.96 RCW. If nonjudicial consolidation has been commenced pursuant to subsection (2) of this section, a petition may be filed under this section unless the trustee has received all necessary consents. The principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(b) At the conclusion of the hearing, if the court finds that the requirements of subsection (1)(d) of this section have been satisfied, it may direct consolidation of two or more trusts on such terms and conditions as appropriate. The court in its discretion may provide for payment from one or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(4) This section applies to all trusts whenever created.

(5) For powers of fiduciaries to divide trusts, see RCW 11.108.025. [1991 c 6 § 2; 1985 c 30 § 51. Prior: 1984 c 149 § 81.]

~~Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.~~

~~Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.~~

**11.98.170 Designation of trustee as beneficiary of life insurance policy or retirement plan—Determination of proper recipient of proceeds—Definitions—Beneficiary designations executed before January 1, 1985, not invalidated.** (1) Any life insurance policy or retirement plan payment provision may designate as beneficiary:

(a) A trustee named or to be named by will, and immediately after the proving of the will, the proceeds of such insurance or of such plan designated as payable to that trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of under the terms of the will governing the testamentary trust; or

(b) A trustee named or to be named under a trust agreement executed by the insured, the plan participant, or any other person, and the proceeds of such insurance or retirement plan designated as payable to such trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of by the trustee as provided in such trust agreement; a trust is valid even if the only corpus consists of the right of the trustee to receive as beneficiary insurance or retirement plan proceeds; any such trustee may also receive assets, other than insurance or retirement plan proceeds, by testamentary disposition or otherwise and, unless directed otherwise by the transferor of the assets, shall administer all property of the trust according to the terms of the trust agreement.

(2) If no qualified trustee makes claim to the insurance policy or retirement plan proceeds from the insurance company or the plan administrator within twelve months after the death of the insured or plan participant, determination of the proper recipient of the proceeds shall be made pursuant to the judicial or nonjudicial dispute resolution procedures of chapter 11.96 RCW, unless prior to the institution of the judicial procedures, a qualified trustee makes claim to the proceeds, except that (a) if satisfactory evidence is furnished the insurance company or plan administrator within the twelve-month period showing that no trustee can or will qualify to receive such proceeds, payment shall be made to those otherwise entitled to the proceeds under the terms of the policy or retirement plan, including the terms of the beneficiary designation except that (b) if there is any dispute as to the proper recipient of insurance policy or retirement plan proceeds, the dispute shall be resolved pursuant to the judicial or nonjudicial resolution procedures in chapter 11.96 RCW.

(3) The proceeds of the insurance or retirement plan as collected by the trustee are not subject to debts of the insured or the plan participant to any greater extent

than if the proceeds were payable to any named beneficiary other than the personal representative or the estate of the insured or of the plan participant.

(4) For purposes of this section the following definitions apply:

(a) "Plan administrator" means the person upon whom claim must be made in order for retirement plan proceeds to be paid upon the death of the plan participant.

(b) "Retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for payment to a beneficiary designated by the plan participant for whom the plan is established. The term includes, without limitation, such plans regardless of source of funding, and, for example, includes pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other retirement plan or program.

(c) "Trustee" includes any custodian under chapter 11.114 RCW or any similar statutory provisions of any other state and the terms "trust agreement" and "will" refer to the provisions of chapter 11.114 RCW or such similar statutory provisions of any other state.

(5) Enactment of this section does not invalidate life insurance policy or retirement plan beneficiary designations executed prior to January 1, 1985, naming a trustee established by will or by trust agreement. [1991 c 193 § 29; 1985 c 30 § 59. Prior: 1984 c 149 § 91.]

**Effective date—Severability—1991 c 193:** See RCW 11.114.903 and 11.114.904.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

## Chapter 11.108

### TRUST GIFT DISTRIBUTION

#### Sections

11.108.010	Definitions.
11.108.025	Election to qualify property for the marital deduction.
11.108.050	Marital deduction gift in trust.

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

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) The term "marital deduction" means the federal estate tax deduction allowed for transfers under section 2056 of the internal revenue code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction.

(5) The term "governing instrument" includes a will and codicils, irrevocable, and revocable trusts.

(6) "Fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) References to the "internal revenue code" are to the United States internal revenue code of 1986, as in effect on June 7, 1990.

(8) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument. [1990 c 224 § 2; 1988 c 64 § 27; 1985 c 30 § 106. Prior: 1984 c 149 § 140.]

**Captions—Severability—1988 c 64:** See RCW 83.100.904 and 83.100.905.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**11.108.025 Election to qualify property for the marital deduction.** Unless a governing instrument directs to the contrary:

(1) The fiduciary shall have the power to make elections, in whole or in part, to qualify property for the marital deduction as qualified terminable interest property under section 2056(b)(7) of the internal revenue code or, if the surviving spouse is not a citizen of the United States, under section 2056A of the internal revenue code.

(2) The fiduciary making an election under section 2056(b)(7) or 2056A of the internal revenue code or making an allocation under section 2632 of the internal revenue code may benefit personally from the election or allocation, with no duty to reimburse any other person interested in the election or allocation. The fiduciary shall have no duty to make any equitable adjustment and shall have no duty to treat interested persons impartially in respect of the election or allocation.

(3) The fiduciary of a trust, if an election is made under section 2056(b)(7) or 2056A of the internal revenue code, if an allocation is made under section 2632 of the internal revenue code, or if division of a trust is of benefit to the persons interested in the trust, may divide the trust into two or more separate trusts, of equal or unequal value, provided that the terms of the separate trusts which result are substantially identical to the terms of the trust before division, and provided further, in the case of a trust otherwise qualifying for the marital deduction under the internal revenue code and its regulations, that the division shall not prevent a separate trust for which the election is made from qualifying for the marital deduction. [1991 c 6 § 1; 1990 c 179 § 2; 1988 c 64 § 29.]

**Captions—Severability—1988 c 64:** See RCW 83.100.904 and 83.100.905.

**11.108.050 Marital deduction gift in trust.** (1) If a governing instrument indicates the testator's intention to make a marital deduction gift in trust, in addition to the

other provisions of this section, each of the following also applies to the trust; provided, however, that such provisions shall not apply to any trust which provides for the entire then remaining trust estate to be paid on the termination of the income interest to the estate of the spouse of the trust's creator, or to a charitable beneficiary, contributions to which are tax deductible for federal income tax purposes:

(a) The only income beneficiary of a marital deduction trust is the testator's surviving spouse;

(b) The income beneficiary is entitled to all of the trust income until the trust terminates;

(c) The trust income is payable to the income beneficiary not less frequently than annually; and

(d) Except in the case of a marital deduction gift in trust, described in subsection (2) of this section, or property that has or would otherwise have qualified for the marital deduction only as the result of an election under section 2056(b)(7) of the internal revenue code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, pass either to the income beneficiary or under the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity in trust or outright. The general power of appointment is exercisable by the income beneficiary alone and in all events.

(2) If a governing instrument indicates the testator's intention to make a marital deduction gift in trust and the surviving spouse is not a citizen of the United States, subsection (1)(a), (b), and (c) of this section and each of the following shall apply to the trust:

(a) At least one trustee of the trust shall be an individual citizen of the United States or of a domestic corporation. However, any distribution from the trust must be approved by this trustee;

(b) The trust shall meet such requirements as the secretary of the treasury of the United States may by regulations prescribe to ensure collection of estate tax, under section 2056A(b) of the internal revenue code; and

(c) (a) and (b) of this subsection shall no longer apply to the trust if the surviving spouse becomes a citizen of the United States and (i) the surviving spouse is a resident of the United States at all times after the testator's death and before becoming a citizen, or (ii) no tax has been imposed on the trust under section 2056A(b)(1)(A) of the internal revenue code before the surviving spouse becomes a citizen, or (iii) the surviving spouse makes an election under section 2056A(b)(12)(C) of the internal revenue code regarding tax imposed on distributions from the trust before becoming a citizen.

(3) The exercise of the general power of appointment provided in this section shall be done only by the income beneficiary in the manner provided by RCW 11.95.060 by specifically referring to this section. [1990 c 179 § 3; 1985 c 30 § 110. Prior: 1984 c 149 § 144.]

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

## Chapter 11.114

### UNIFORM TRANSFERS TO MINORS ACT

#### Sections

11.114.010	Definitions.
11.114.020	Scope and jurisdiction.
11.114.030	Nomination of custodian.
11.114.040	Transfer by gift or exercise of power of appointment.
11.114.050	Transfer authorized by will or trust.
11.114.060	Other transfer by fiduciary.
11.114.070	Transfer by obligor.
11.114.080	Receipt for custodial property.
11.114.090	Manner of creating custodial property and effecting transfer—Designation of initial custodian—Control.
11.114.100	Single custodianship.
11.114.110	Validity and effect of transfer.
11.114.120	Care of custodial property.
11.114.130	Powers of custodian.
11.114.140	Use of custodial property.
11.114.150	Custodian's expenses, compensation, and bond.
11.114.160	Exemption of third person from liability.
11.114.170	Liability to third persons.
11.114.180	Renunciation, resignation, death, or removal of custodian—Designation of successor custodian.
11.114.190	Accounting by and determination of liability of custodian.
11.114.200	Termination of custodianship.
11.114.210	Applicability.
11.114.220	Effect on existing custodianships.
11.114.230	Uniformity of application and construction.
11.114.900	Short title.
11.114.901	Captions not law.
11.114.902	Savings.
11.114.903	Effective date—1991 c 193.
11.114.904	Severability—1991 c 193.

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

(1) "Adult" means an individual who has attained the age of twenty-one years.

(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

(4) "Guardian" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions. Conservator means guardian for transfers made under another state's law but enforceable in this state's courts.

(5) "Court" means a superior court of the state of Washington.

(6) "Custodial property" means (a) any interest in property transferred to a custodian under this chapter and (b) the income from and proceeds of that interest in property.

(7) "Custodian" means a person so designated under RCW 11.114.090 or a successor or substitute custodian designated under RCW 11.114.180.

(8) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(9) "Legal representative" means an individual's personal representative or guardian.

(10) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Minor" means an individual who has not attained the age of twenty-one years.

(12) "Person" means an individual, corporation, organization, or other legal entity.

(13) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(14) "Transfer" means a transaction that creates custodial property under RCW 11.114.090.

(15) "Transferor" means a person who makes a transfer under this chapter.

(16) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers. [1991 c 193 § 1.]

**11.114.020 Scope and jurisdiction.** (1) This chapter applies to a transfer that refers to this chapter in the designation under RCW 11.114.090(1) by which the transfer is made if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this chapter is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and which is valid under the uniform transfers to minors act, the uniform gifts to minors act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

(4) A matter under this chapter subject to court determination is governed by the procedures provided in chapter 11.96 RCW. However, no guardian ad litem is required for the minor, except under RCW 11.114.190(1), in the case of a petition by a unrepresented minor under the age of fourteen years. [1991 c 193 § 2.]

**11.114.030 Nomination of custodian.** (1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to

minors act." The nomination may name one or more persons as substitute custodians to whom the property shall be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under RCW 11.114.090(1).

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under RCW 11.114.090. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to RCW 11.114.090. [1991 c 193 § 3.]

**11.114.040 Transfer by gift or exercise of power of appointment.** A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to RCW 11.114.090. [1991 c 193 § 4.]

**11.114.050 Transfer authorized by will or trust.** (1) A personal representative or trustee may make an irrevocable transfer pursuant to RCW 11.114.090 to a custodian for the benefit of a minor as authorized in the governing will or trust. The personal representative or trustee may designate himself or herself as custodian provided he or she falls within the class of persons eligible to serve as custodian under RCW 11.114.090(1).

(2) If the testator or grantor has nominated a custodian under RCW 11.114.030 to receive the custodial property, the transfer shall be made to that person.

(3) If the testator or grantor has not nominated a custodian under RCW 11.114.030, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under RCW 11.114.090(1). The personal representative or trustee may designate himself or herself as custodian, provided he or she falls within the class of persons eligible to serve as custodian under RCW 11.114.090(1). [1991 c 193 § 5.]

**11.114.060 Other transfer by fiduciary.** (1) A personal representative or trustee may make an irrevocable transfer to an adult or trust company for the benefit of a minor pursuant to RCW 11.114.090, in the absence of a will or under a will or trust that does not contain an authorization to do so, but only if:

(a) The personal representative or trustee, or the court if an order is requested under (c) of this subsection,

considers the transfer to be in the best interest of the minor;

(b) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust instrument, or other governing instrument; and

(c) The transfer is authorized by the court if it exceeds thirty thousand dollars in value.

The personal representative, the trustee, or a member of the minor's family may select the custodian, subject to court approval. The personal representative or trustee may serve as custodian, provided he or she falls within the class of persons eligible to serve as custodian under RCW 11.114.090(1).

(2) A member of the minor's family may request that the court establish a custodianship if a custodianship has not already been established, regardless of the value of the transfer. [1991 c 193 § 6.]

**11.114.070 Transfer by obligor.** (1) Subject to subsections (2) and (3) of this section, a person not subject to RCW 11.114.050 or 11.114.060 who holds property of or owes a liquidated debt to a minor not having a guardian may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to RCW 11.114.090.

(2) If a person having the right to do so under RCW 11.114.030 has nominated a custodian under that section to receive the custodial property, the transfer shall be made to that person.

(3) If no custodian has been nominated under RCW 11.114.030, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds thirty thousand dollars in value.

(4) A member of the minor's family or the person who holds the property of the minor or who owes a debt to the minor may request that the court establish a custodianship if not previously established, regardless of the value of the transfer. [1991 c 193 § 7.]

**11.114.080 Receipt for custodial property.** A written confirmation of delivery by a custodian constitutes a sufficient receipt and discharge of the transferor for custodial property transferred to the custodian under this chapter. [1991 c 193 § 8.]

**11.114.090 Manner of creating custodial property and effecting transfer—Designation of initial custodian—Control.** (1) Custodial property is created and a transfer is made if:

(a) An uncertificated security or a certificated security in registered form is either:

(i) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act"; or

(ii) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is

delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (2) of this section;

(b) Money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act";

(c) The ownership of a life or endowment insurance policy or annuity contract is either:

(i) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act"; or

(ii) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act";

(d) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act";

(e) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act";

(f) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(i) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act"; or

(ii) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "----- as custodian for ----- (name of minor) under the Washington uniform transfers to minors act"; or

(g) An interest in any property not described in (a) through (f) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (2) of this section.

(2) An instrument in the following form satisfies the requirements of subsection (1) (a)(ii) and (g) of this section:

"TRANSFER UNDER THE WASHINGTON UNIFORM TRANSFERS TO MINORS ACT

I, ..... (name of transferor or name and representative capacity if a fiduciary) hereby transfer to ..... (name of custodian), as custodian for ..... (name of minor) under the Washington uniform transfers to minors act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: .....

(Signature)

..... (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Washington uniform transfers to minors act.

Dated: .....

(Signature of Custodian)

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable. [1991 c 193 § 9.]

11.114.100 Single custodianship. A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship. [1991 c 193 § 10.]

11.114.110 Validity and effect of transfer. (1) The validity of a transfer made in a manner prescribed in this chapter is not affected by:

- (a) Failure of the transferor to comply with RCW 11.114.090(3) concerning possession and control;
(b) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under RCW 11.114.090(1); or
(c) Death or incapacity of a person nominated under RCW 11.114.030 or designated under RCW 11.114.090 as custodian or the disclaimer of the office by that person.

(2) A transfer made pursuant to RCW 11.114.090 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(3) By making a transfer, the transferor incorporates in the disposition all the provisions of this chapter and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective

powers, rights, and immunities provided in this chapter. [1991 c 193 § 11.]

11.114.120 Care of custodial property. (1) A custodian shall, as soon as custodial property is made available to the custodian:

- (a) Take control of custodial property;
(b) Register or record title to custodial property if appropriate; and
(c) Collect, hold, manage, invest, and reinvest custodial property.

(2) In dealing with custodial property, a custodian shall observe the standard of care applicable to fiduciaries under chapter 11.100 RCW. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. A custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor according to the same standards as apply to a fiduciary holding trust funds under RCW 11.100.060. However, the provisions of RCW 11.100.025, 11.100.040, and 11.100.140 shall not apply to a custodian.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on (a) the life of the minor only if the minor or the minor's estate is the sole beneficiary, or (b) the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(4) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "..... as custodian for ..... (name of minor) under the Washington uniform transfers to minors act."

(5) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available upon request for inspection by a parent or legal representative of the minor or by the minor if the minor has attained the age of fourteen years. [1991 c 193 § 12.]

11.114.130 Powers of custodian. (1) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, including without limitation all the powers granted to a trustee under RCW 11.98.070, but a custodian may exercise those rights, powers, and authority only in a custodial capacity.

(2) This section does not relieve a custodian from liability for breach of RCW 11.114.120. [1991 c 193 § 13.]

**11.114.140 Use of custodial property.** (1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to (a) the duty or ability of the custodian personally or of any other person to support the minor, or (b) any other income or property of the minor which may be applicable or available for that purpose.

(2) On petition of an interested person or the minor if the minor has attained the age of fourteen years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor. [1991 c 193 § 14.]

**11.114.150 Custodian's expenses, compensation, and bond.** (1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(2) Except for one who is a transferor under RCW 11.114.040, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(3) Except as provided in RCW 11.114.180(6), a custodian need not give a bond.

(4) Notwithstanding RCW 11.114.190, a custodian not compensated for services is not liable for losses to the custodial property unless they result from bad faith, intentional wrongdoing, or gross negligence, or from failure to maintain the standard of prudence in investing the custodial property provided in this chapter. [1991 c 193 § 15.]

**11.114.160 Exemption of third person from liability.** A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian or successor custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under this chapter for, any act of the purported custodian;

(3) The validity or propriety under this chapter of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the minor delivered to the purported custodian. [1991 c 193 § 16.]

**11.114.170 Liability to third persons.** (1) A claim based on:

(a) A contract entered into by a custodian acting in a custodial capacity;

(b) An obligation arising from the ownership or control of custodial property;

(c) A tort committed during the custodianship, may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor; or

(d) A noncontractual obligation, including obligations in tort, is collectible from the custodial property only if:

(i) The obligation was a common incident of the kind of business activity in which the custodian or the custodian's predecessor was properly engaged for the custodianship;

(ii) Neither the custodian nor the custodian's predecessor, nor any officer or employee of the custodian or the custodian's predecessor was personally at fault in incurring the obligation; or

(iii) Although the obligation did not fall within (d)(i) or (ii) of this subsection, the incident that gave rise to the obligation increased the value of the custodial property.

If the obligation is within (d)(i) or (ii) or [of] this subsection, collection may be had of the full amount of damage proved. If the obligation is within (d)(iii) of this subsection, collection may be had only to the extent of the increase in the value of the trust property.

(2) A custodian is not personally liable:

(a) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity. The addition of the words "custodian" or "as custodian" after the signature of a custodian is adequate revelation of this capacity; or

(b) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodial property is not liable for the obligation under \*(b) of this subsection and unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault. [1991 c 193 § 17.]

**\*Reviser's note:** The reference to (b) of this subsection appears erroneous. Reference to subsection (1)(b) of this section was apparently intended.

**11.114.180 Renunciation, resignation, death, or removal of custodian—Designation of successor custodian.** (1) A person nominated under RCW 11.114.030 or designated under RCW 11.114.090 as custodian may decline to serve. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under RCW 11.114.030, the person who made the nomination may nominate a substitute custodian under RCW 11.114.030; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the

time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under RCW 11.114.090(1). The custodian so designated has the rights of a successor custodian.

(2) A custodian at any time may designate a trust company or an adult other than a transferor under RCW 11.114.040 as successor custodian by executing and dating an instrument of designation. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed, and custodial property is transferred to the successor custodian.

(3) A custodian may resign at any time by delivering written notice to the minor, if the minor has attained the age of fourteen years, and to the successor custodian, and by delivering the custodial property to the successor custodian.

(4) If a custodian is ineligible, dies, or becomes incapacitated and no successor custodian has been designated as provided in this chapter, and the minor has attained the age of fourteen years, the minor may designate as successor custodian, in the manner prescribed in subsection (2) of this section, an adult member of the minor's family, a guardian of the minor, or a trust company. If the minor has not attained the age of fourteen years or fails to act within sixty days after the ineligibility, death, or incapacity, the guardian of the minor becomes successor custodian. If the minor has no guardian or the guardian declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(5) A custodian who declines to serve under subsection (1) of this section or resigns under subsection (3) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(6) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the minor, or the minor if the minor has attained the age of fourteen years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under RCW 11.114.040 or to require the custodian to give appropriate bond. [1991 c 193 § 18.]

**11.114.190 Accounting by and determination of liability of custodian.** (1) A minor who has attained the age of fourteen years, the minor's legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court (a) for an accounting by the custodian or the custodian's legal representative; or (b) for a determination of responsibility, as between the custodial property and the

custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under RCW 11.114.170 to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(4) If a custodian is removed under RCW 11.114.180(6), the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property. [1991 c 193 § 19.]

**11.114.200 Termination of custodianship.** Subject to RCW 11.114.220, the custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) The minor's attainment of twenty-one years of age with respect to custodial property transferred under RCW 11.114.040 or 11.114.050;

(2) The minor's attainment of eighteen years of age with respect to custodial property transferred under RCW 11.114.060 or 11.114.070; or

(3) The minor's death. [1991 c 193 § 20.]

**11.114.210 Applicability.** This chapter applies to a transfer within the scope of RCW 11.114.020 made after July 1, 1991, if:

(1) The transfer purports to have been made under the Washington uniform gifts to minors act; or

(2) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the uniform gifts to minors act" or "as custodian under the uniform transfers to minors act" of any other state, and the application of this chapter is necessary to validate the transfer. [1991 c 193 § 21.]

**11.114.220 Effect on existing custodianships.** (1) Any transfer of custodial property as now defined in this chapter made before July 1, 1991, is validated notwithstanding that there was no specific authority in the Washington uniform gifts to minors act for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) This chapter applies to all transfers made before July 1, 1991, in a manner and form prescribed in the Washington uniform gifts to minors act, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on July 1, 1991. However, as to any custodianship established after August 9, 1971, but prior to January 1, 1985, a minor has the right after attaining the age of eighteen to demand delivery from the custodian of all or any portion of the custodial property. [1991 c 193 § 22.]

**11.114.230 Uniformity of application and construction.** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law

with respect to the subject of this chapter among states enacting it. [1991 c 193 § 23.]

**11.114.900 Short title.** This chapter may be cited as the uniform transfers to minors act. [1991 c 193 § 24.]

**11.114.901 Captions not law.** Section headings as used in this chapter do not constitute any part of the law. [1991 c 193 § 25.]

**11.114.902 Savings—1991 c 193.** To the extent that this chapter, by virtue of RCW 11.114.220(2), does not apply to transfers made in a manner prescribed in the uniform gifts to minors act of Washington or to the powers, duties, and immunities conferred by transfers in that manner upon custodians and persons dealing with custodians, the repeal of the uniform gifts to minors act of Washington does not affect those transfers or those powers, duties, and immunities. [1991 c 193 § 26.]

**11.114.903 Effective date—1991 c 193.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 193 § 34.]

**11.114.904 Severability—1991 c 193.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 193 § 35.]

**Title 12**

**DISTRICT COURTS—CIVIL PROCEDURE**

(Formerly: Justice Courts—Civil Procedure)

**Chapters**

**12.40 Small claims.**

**Chapter 12.40  
SMALL CLAIMS**

**Sections**

- 12.40.010 Department authorized—Jurisdictional amount.
- 12.40.020 Action, how commenced—Fee.
- 12.40.080 Hearing.

**12.40.010 Department authorized—Jurisdictional amount.** In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court". The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed two thousand five hundred dollars. [1991 c 71 § 1; 1988 c 85 § 1; 1984 c 258 § 57; 1981 c 331 § 10; 1979 c 102 § 4; 1973 c 128 § 1; 1970 ex.s. c 83 § 1; 1963 c 123 § 1; 1919 c 187 § 1; RRS § 1777-1.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331:** See notes following RCW 2.32.070.

**Application, savings—Effective date—Severability—1979 c 102:** See notes following RCW 3.66.020.

**12.40.020 Action, how commenced—Fee.** A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of ten dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. [1990 c 172 § 3; 1984 c 258 § 58; 1919 c 187 § 2; RRS § 1777-2.]

**Effective date—1990 c 172:** See note following RCW 7.75.035.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**12.40.080 Hearing.** No attorney at law, legal paraprofessional, nor any person other than the plaintiff and defendant, shall concern himself or herself or in any manner interfere with the prosecution or defense of litigation in the small claims department without the consent of the judge of the district court. A corporation plaintiff may not be represented by an attorney at law, or legal paraprofessional. In the small claims department it shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf by witnesses appearing at such hearing, and the judge may informally consult witnesses or otherwise investigate the controversy between the parties, and give judgment or make such orders as the judge may deem to be right, just and equitable for the disposition of the controversy. [1991 c 71 § 2; 1984 c 258 § 65; 1981 c 331 § 12; 1919 c 187 § 8; RRS § 1777-8.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331:** See notes following RCW 2.32.070.

**Title 13**

**JUVENILE COURTS AND JUVENILE OFFENDERS**

**Chapters**

- 13.04 Basic juvenile court act.**
- 13.20 Management of detention facilities—Counties with populations of one million or more.**
- 13.32A Family reconciliation act.**
- 13.34 Juvenile court act in cases relating to dependency of a child and the termination of a parent and child relationship.**
- 13.40 Juvenile justice act of 1977.**
- 13.50 Keeping and release of records by juvenile justice or care agencies.**
- 13.70 Substitute care of children—Review board system.**

**Chapter 13.04**  
**BASIC JUVENILE COURT ACT**  
 (Formerly: Juvenile courts)

## Sections

13.04.033	Appeal of court order—Procedure—Priority, when.
13.04.035	Administrator of juvenile court, probation counselor, and detention services—Appointment.
13.04.093	Hearings—Duties of prosecuting attorney or attorney general, when.
13.04.145	Educational program for juveniles in detention facilities.

**13.04.033 Appeal of court order—Procedure—Priority, when.** (1) Any person aggrieved by a final order of the court may appeal the order as provided by this section. All appeals in matters other than those related to commission of a juvenile offense shall be taken in the same manner as in other civil cases. Except as otherwise provided in this title, all appeals in matters related to the commission of a juvenile offense shall be taken in the same manner as criminal cases and the right to collateral relief shall be the same as in criminal cases. The order of the juvenile court shall stand pending the disposition of the appeal: **PROVIDED**, That the court or the appellate court may upon application stay the order.

(2) If the final order from which an appeal is taken grants the custody of the child to, or withholds it from, any of the parties, or if the child is committed as provided under this chapter, the appeal shall be given priority in hearing.

(3) In the absence of a specific direction from the party seeking review to file the notice, or the court-appointed guardian ad litem, the court may dismiss the review pursuant to RAP 18.9. To the extent that this enactment [1990 c 284] conflicts with the requirements of RAP 5.3(a) or RAP 5.3(b) this enactment [1990 c 284] shall supersede the conflicting rule. [1990 c 284 § 35; 1979 c 155 § 4; 1977 ex.s. c 291 § 5.]

*Rules of court: Rules of Appellate Procedure.*

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.04.035 Administrator of juvenile court, probation counselor, and detention services—Appointment.** Juvenile court, probation counselor, and detention services shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county they may be administered by the legislative authority of the county in the manner prescribed by RCW 13.20.060: **PROVIDED**, That in any county with a population of one million or more, such services shall be administered in accordance with chapter 13.20 RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. One person may, pursuant to the agreement of more than one administrative body, serve as administrator of more than

one juvenile court. [1991 c 363 § 10; 1979 c 155 § 5; 1977 ex.s. c 291 § 6.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**Prosecuting attorney as party to juvenile court proceedings—Exception, procedure: RCW 13.40.090.**

**13.04.093 Hearings—Duties of prosecuting attorney or attorney general, when.** It shall be the duty of the prosecuting attorney to act in proceedings relating to the commission of a juvenile offense as provided in RCW 13.40.070 and 13.40.090 and in proceedings as provided in chapter 71.34 RCW. It shall be the duty of the prosecuting attorney to handle delinquency cases under chapter 13.24 RCW and it shall be the duty of the attorney general to handle dependency cases under chapter 13.24 RCW. It shall be the duty of the attorney general in contested cases brought by the department to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship or any contested case filed under RCW 26.33-.100 or approving or disapproving alternative residential placement: **PROVIDED**, That in each county with a population of less than two hundred ten thousand, the attorney general may contract with the prosecuting attorney of the county to perform said duties of the attorney general. [1991 c 363 § 11; 1985 c 354 § 30; 1985 c 7 § 4; 1979 ex.s. c 165 § 6; 1977 ex.s. c 291 § 9.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—Effective date—1985 c 354:** See RCW 71.34.900 and 71.34.901.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.04.145 Educational program for juveniles in detention facilities.** A program of education shall be provided for by the several counties and school districts of the state for common school age persons confined in each of the detention facilities staffed and maintained by the several counties of the state under this chapter and chapters 13.16 and 13.20 RCW. The division of duties, authority, and liabilities of the several counties and school districts of the state respecting the educational programs is the same in all respects as set forth in RCW 28A.190.030 through 28A.190.060 respecting programs of education for state residential school residents. For the purposes of this section, the terms "department of social and health services," "residential school" or "schools," and "superintendent or chief administrator of a residential school" as used in RCW 28A.190.030 through 28A.190.060 shall be respectively construed to mean "the several counties of the state," "detention facilities," and "the administrator of juvenile court detention services." Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW 28A.310.180. [1990 c 33 § 551; 1983 c 98 § 1.]

**Purpose**—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.  
*Juvenile facilities, educational programs: RCW 28A.190.010.*

### Chapter 13.20

#### MANAGEMENT OF DETENTION FACILITIES— COUNTIES WITH POPULATIONS OF ONE MILLION OR MORE

(Formerly: Management of detention facilities—Class AA counties)

##### Sections

- 13.20.010 Board of managers—Appointment authorized—Composition.  
 13.20.060 Transfer of administration of juvenile court services to county executive—Authorized—Advisory board—Procedure.

**13.20.010 Board of managers—Appointment authorized—Composition.** The judges of the superior court of any county with a population of one million or more are hereby authorized, by majority vote, to appoint a board of managers to administer, subject to the approval and authority of such superior court, the probation and detention services for dependent and delinquent children coming under the jurisdiction of the juvenile court.

Such board shall consist of four citizens of the county and the judge who has been selected to preside over the juvenile court. [1991 c 363 § 12; 1955 c 232 § 1.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**13.20.060 Transfer of administration of juvenile court services to county executive—Authorized—Advisory board—Procedure.** In addition, and alternatively, to the authority granted by RCW 13.20.010, the judges of the superior court of any county with a population of one million or more operating under a county charter providing for an elected county executive are hereby authorized, by a majority vote, subject to approval by ordinance of the legislative authority of the county to transfer to the county executive the responsibility for, and administration of all or part of juvenile court services, including detention, intake and probation. The superior court and county executive of such county are further authorized to establish a five-member juvenile court advisory board to advise the county in its administration of such services, facilities and programs. If the advisory board is established, two members of the advisory board shall be appointed by the superior court, two members shall be appointed by the county executive, and one member shall be selected by the vote of the other four members. The county is authorized to contract or otherwise make arrangements with other public or private agencies to provide all or a part of such services, facilities and programs. Subsequent to any transfer to the county of responsibility and administration of such services, facilities and programs pursuant to the foregoing authority, the judges of such superior court, by majority vote subject to the approval by ordinance of the legislative authority of the county, may retransfer the same to the superior court. [1991 c 363 § 13; 1975 1st ex.s. c 124 § 1.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

### Chapter 13.32A

#### FAMILY RECONCILIATION ACT (Formerly: Procedures for families in conflict)

##### Sections

- 13.32A.020 Short title.  
 13.32A.030 Definitions—Regulating leave from semi-secure facility.  
 13.32A.040 Family reconciliation services—Request for—Scope.  
 13.32A.050 Officer taking child into custody—When authorized—Maximum time of custody—Notice to department, when.  
 13.32A.090 Duty to inform parents of child's whereabouts, condition and reconciliation procedure—Transportation to child's home or alternative residence.  
 13.32A.120 Alternative residential placement—Agreement to continue—Petition to approve.  
 13.32A.130 Child admitted to crisis residential center—Maximum hours of custody—Reconciliation effort—Information to parents upon retaining custody—Written statement of services and rights.  
 13.32A.140 Alternative residential placement—Department to file petition for, when—Procedure.  
 13.32A.150 Alternative residential placement—Petition by child or parent.  
 13.32A.160 Alternative residential placement—Court action upon filing of petition—Child placement.  
 13.32A.192 At-risk youth petition—Prehearing procedures.  
 13.32A.194 At-risk youth petition—Court procedures.  
 13.32A.196 At-risk youth petition—Dispositional hearing.  
 13.32A.198 At-risk youth—Review by court.  
 13.32A.210 Foster home placement—Parental preferences.  
 13.32A.250 Failure to comply with order as contempt—Motion—Penalties.

*Consistency required in administration of statutes applicable to runaway youth, at-risk youth, and families in conflict: RCW 43.20A.770.*

**13.32A.020 Short title.** This chapter shall be known and may be cited as the Family Reconciliation Act. [1990 c 276 § 2; 1979 c 155 § 16.]

**Intent**—1990 c 276: "It is the intent of the legislature to:

- (1) Preserve, strengthen, and reconcile families experiencing problems with at-risk youth;
- (2) Provide a legal process by which parents who are experiencing problems with at-risk youth can request and receive assistance from juvenile courts in providing appropriate care, treatment, and supervision to such youth; and
- (3) Assess the effectiveness of the family reconciliation services program.

The legislature does not intend by this enactment to grant any parent the right to file an at-risk youth petition or receive juvenile court assistance in dealing with an at-risk youth. The purpose of this enactment is to create a process by which a parent of an at-risk youth may request and receive assistance subject to the availability of juvenile court services and resources. Recognizing that these services and resources are limited, the legislature intends that counties have the authority to impose reasonable limits on the utilization of juvenile court services and resources in matters related to at-risk youth. Any responsibilities imposed upon the department under this act shall be contingent upon the availability of funds specifically appropriated by the legislature for such purpose." [1990 c 276 § 1.]

**Conflict with federal requirements**—1990 c 276: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the

conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1990 c 276 § 19.]

**Severability—1990 c 276:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 276 § 20.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.030 Definitions—Regulating leave from semi-secure facility.** As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Department" means the department of social and health services;

(2) "Child," "juvenile," and "youth" mean any individual who is under the chronological age of eighteen years;

(3) "Parent" means the legal custodian(s) or guardian(s) of a child;

(4) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away: PROVIDED, That such facility shall not be a secure institution or facility as defined by the federal juvenile justice and delinquency prevention act of 1974 (P.L. 93-415; 42 U.S.C. Sec. 5634 et seq.) and regulations and clarifying instructions promulgated thereunder. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center. The facility administrator shall notify a parent and the appropriate law enforcement agency within four hours of all unauthorized leaves;

(5) "At-risk youth" means an individual under the chronological age of eighteen years who:

(a) Is absent from home for more than seventy-two consecutive hours without consent of his or her parent;

(b) Is beyond the control of his or her parent such that the child's behavior substantially endangers the health, safety, or welfare of the child or any other person; or

(c) Has a serious substance abuse problem for which there are no pending criminal charges related to the substance abuse. [1990 c 276 § 3; 1985 c 257 § 6; 1979 c 155 § 17.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.040 Family reconciliation services—Request for—Scope.** Families who are in conflict or who are experiencing problems with at-risk youth may request family reconciliation services from the department. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible. Family reconciliation services shall be designed to develop skills and supports within families to resolve problems related to at-risk youth or family conflicts and may include but are not limited to referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family. [1990 c 276 § 4; 1981 c 298 § 1; 1979 c 155 § 18.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 298 § 20.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.050 Officer taking child into custody—When authorized—Maximum time of custody—Notice to department, when.** A law enforcement officer shall take a child into custody:

(1) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(2) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety; or

(3) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(4) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter.

Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.

An officer who takes a child into custody under this section and places the child in a designated crisis residential center shall inform the department of such placement within twenty-four hours.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law. [1990 c 276 § 5; 1986 c 288 § 1; 1985 c 257 § 7; 1981 c 298 § 2; 1979 c 155 § 19.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**Severability—1986 c 288:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 288 § 13.]

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.090 Duty to inform parents of child's whereabouts, condition and reconciliation procedure—Transportation to child's home or alternative residence.**

(1) The person in charge of a designated crisis residential center or the department pursuant to RCW 13.32A.070 shall perform the duties under subsection (2) of this section:

(a) Upon admitting a child who has been brought to the center by a law enforcement officer under RCW 13.32A.060;

(b) Upon admitting a child who has run away from home or has requested admittance to the center;

(c) Upon learning from a person under RCW 13.32A.080(3) that the person is providing shelter to a child absent from home; or

(d) Upon learning that a child has been placed with a responsible adult pursuant to RCW 13.32A.070.

(2) When any of the circumstances under subsection (1) of this section are present, the person in charge of a center shall perform the following duties:

(a) Immediately notify the child's parent of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;

(b) Initially notify the parent that it is the paramount concern of the family reconciliation service personnel to achieve a reconciliation between the parent and child to reunify the family and inform the parent as to the procedures to be followed under this chapter;

(c) Inform the parent whether a referral to children's protective services has been made and, if so, inform the parent of the standard pursuant to RCW 26.44.020(12) governing child abuse and neglect in this state;

(d) Arrange transportation for the child to the residence of the parent, as soon as practicable, at the latter's expense to the extent of his or her ability to pay, with any unmet transportation expenses to be assumed by the department, when the child and his or her parent agrees to the child's return home or when the parent produces a copy of a court order entered under this chapter requiring the child to reside in the parent's home;

(e) Arrange transportation for the child to an alternative residential placement which may include a licensed group care facility or foster family when agreed to by the child and parent at the latter's expense to the extent of his or her ability to pay, with any unmet transportation expenses assumed by the department. [1990 c 276 § 6; 1981 c 298 § 7; 1979 c 155 § 23.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.120 Alternative residential placement—Agreement to continue—Petition to approve. (1)**

Where either a child or the child's parent or the person or facility currently providing shelter to the child notifies the center that such individual or individuals cannot agree to the continuation of an alternative residential placement arrived at pursuant to RCW 13.32A.090(2)(e), the center shall immediately contact the remaining party or parties to the agreement and shall attempt to bring about the child's return home or to an alternative living arrangement agreeable to the child and the parent as soon as practicable.

(2) If a child and his or her parent cannot agree to an alternative residential placement under RCW 13.32A.090(2)(e), either the child or parent may file with the juvenile court a petition to approve an alternative residential placement or the parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth under this chapter.

(3) If a child and his or her parent cannot agree to the continuation of an alternative residential placement arrived at under RCW 13.32A.090(2)(e), either the child or parent may file with the juvenile court a petition to approve an alternative residential placement or the parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth under this chapter. [1990 c 276 § 7; 1979 c 155 § 26.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.130 Child admitted to crisis residential center—Maximum hours of custody—Reconciliation effort—Information to parents upon retaining custody—Written statement of services and rights.**

A child admitted to a crisis residential center under this chapter who is not returned to the home of his or her parent or who is not placed in an alternative residential placement under an agreement between the parent and child, shall, except as provided for by RCW 13.32A.140 and 13.32A.160(2), reside in such placement under the rules and regulations established for the center for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays, from the time of intake, except as otherwise provided by this chapter. Crisis residential center staff shall make a concerted effort to achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours, excluding Saturdays, Sundays and holidays, from the time of intake, and if the person in charge of the center does not consider it likely that reconciliation will be achieved within the seventy-two hour period, then the person in charge shall inform the parent and child of (1) the availability of counseling services; (2) the right to file a petition for an alternative residential placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; and (3) the right to request a review of any alternative residential

placement: PROVIDED, That at no time shall information regarding a parent's or child's rights be withheld if requested: PROVIDED FURTHER, That the department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating such services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of such statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of such statement. [1990 c 276 § 8; 1985 c 257 § 9; 1981 c 298 § 9; 1979 c 155 § 27.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.140 Alternative residential placement—Department to file petition for, when—Procedure.** The department shall file a petition to approve an alternative residential placement on behalf of a child under any of the following sets of circumstances:

(1) The child has been admitted to a crisis residential center or has been placed with a responsible person other than his or her parent, and:

(a) The parent has been notified that the child was so admitted or placed;

(b) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

(c) No agreement between the parent and the child as to where the child shall live has been reached;

(d) No petition requesting approval of an alternative residential placement has been filed by either the child or parent or legal custodian;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

(2) The child has been admitted to a crisis residential center and:

(a) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

(b) The staff, after searching with due diligence, have been unable to contact the parent of such child; and

(c) The child has no suitable place to live other than the home of his or her parent.

(3) An agreement between parent and child made pursuant to RCW 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer acceptable to parent or child, and:

(a) The party to whom the arrangement is no longer acceptable has so notified the department;

(b) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

(c) No new agreement between parent and child as to where the child shall live has been reached;

(d) No petition requesting approval of an alternative residential placement has been filed by either the child or the parent;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

Under the circumstances of subsections (1), (2), or (3) of this section, the child shall remain in a licensed child care facility, including but not limited to a crisis residential center, or in any other suitable residence to be determined by the department until an alternative residential placement petition filed by the department on behalf of the child is reviewed by the juvenile court and is resolved by such court. The department may authorize emergency medical or dental care for a child placed under this section. The state, when the department files a petition for alternative residential placement under this section, shall be represented as provided for in RCW 13.04.093. [1990 c 276 § 9; 1981 c 298 § 10; 1979 c 155 § 28.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.150 Alternative residential placement—Petition by child or parent.** (1) Except as otherwise provided in this section the juvenile court shall not accept the filing of an alternative residential placement petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that a family assessment has been completed by the department. The family assessment shall be aimed at family reconciliation and avoidance of the out-of-home placement of the child. If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under subsection (3) of this section.

(2) A child or a child's parent may file with the juvenile court a petition to approve an alternative residential placement for the child outside the parent's home. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition shall only ask that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an alternative residential placement.

(3) A child's parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth. The department shall, when requested, assist the parent in filing the petition. The petition shall be filed in the county where the petitioning parent resides. The petition shall set forth the name, age, and residence of the child and the names and residence of the child's parents and shall allege that:

(a) The child is an at-risk youth as defined in this chapter;

(b) The petitioning parent has the right to legal custody of the child;

(c) Court intervention and supervision are necessary to assist the parent to maintain the care, custody, and control of the child; and

(d) Alternatives to court intervention have been attempted or there is good cause why such alternatives have not been attempted.

The petition shall set forth facts that support the allegations in this subsection and shall generally request relief available under this chapter. The petition need not specify any proposed disposition following adjudication of the petition. The filing of an at-risk youth petition is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent and confers upon the court the special jurisdiction to assist the parent in maintaining parental authority and responsibility for the child. An at-risk youth petition may not be filed if the court has approved an alternative residential placement petition regarding the child or if the child is the subject of a proceeding under chapter 13.34 RCW. A petition may be accepted for filing only if alternatives to court intervention have been attempted or if there is good cause why they were not attempted. Juvenile court personnel may screen all at-risk youth petitions and may refuse to allow the filing of any petition that lacks merit, fails to comply with the requirements of this section, or fails to allege sufficient facts in support of allegations in the petition. [1990 c 276 § 10; 1989 c 269 § 1; 1981 c 298 § 11; 1979 c 155 § 29.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**Severability—**1981 c 298: See note following RCW 13.32A.040.

**Effective date—Severability—**1979 c 155: See notes following RCW 13.04.011.

### **13.32A.160 Alternative residential placement—Court action upon filing of petition—Child placement.**

(1) When a proper petition to approve an alternative residential placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the juvenile court shall: (a) Schedule a date for a fact-finding hearing; notify the parent, child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving an alternative residential placement petition; and (e) notify all parties, including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of an alternative residential placement petition, the child may be placed, if not already placed, by the department in a crisis residential center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence to be determined by the department.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW,

the child shall remain there, or in any other suitable residence as determined by the department, pending resolution of the alternative residential placement petition by the court. Any placement may be reviewed by the court within three court days upon the request of the juvenile or the juvenile's parent. [1990 c 276 § 11; 1989 c 269 § 2; 1979 c 155 § 30.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**Effective date—Severability—**1979 c 155: See notes following RCW 13.04.011.

**13.32A.192 At-risk youth petition—Prehearing procedures.** (1) When a proper at-risk youth petition is filed by a child's parent under RCW 13.32A.120 or 13.32A.150, the juvenile court shall:

(a) Schedule a fact-finding hearing and notify the parent and the child of such date;

(b) Notify the parent of the right to be represented by counsel at the parent's own expense;

(c) Appoint legal counsel for the child;

(d) Inform the child and his or her parent of the legal consequences of the court finding the child to be an at-risk youth; and

(e) Notify the parent and the child of their rights to present evidence at the fact-finding hearing.

(2) Unless out-of-home placement of the child is otherwise authorized or required by law, the child shall reside in the home of his or her parent or in an alternative residential placement approved by the parent. Upon request by the parent, the court may enter a court order requiring the child to reside in the home of his or her parent or an alternative residential placement approved by the parent.

(3) If upon sworn written or oral declaration of the petitioning parent, the court has reason to believe that a child has willfully and knowingly violated a court order issued pursuant to subsection (2) of this section, the court may issue an order directing law enforcement to take the child into custody and place the child in a juvenile detention facility or in a crisis residential center licensed by the department and established pursuant to chapter 74.13 RCW. If the child is placed in detention, a review shall be held as provided in RCW 13.32A.065.

(4) If both an alternative residential placement petition and an at-risk youth petition have been filed with regard to the same child, the proceedings shall be consolidated for purposes of fact-finding. Pending a fact-finding hearing regarding the petition, the child may be placed, if not already placed, in an alternative residential placement as provided in RCW 13.32A.160 unless the court has previously entered an order requiring the child to reside in the home of his or her parent. The child or the parent may request a review of the child's placement including a review of any court order requiring the child to reside in the parent's home. At the review the court, in its discretion, may order the child placed in the parent's home or in an alternative residential placement pending the hearing. [1990 c 276 § 12.]

**Intent—Conflict with federal requirements—Severability—**1990 c 276: See notes following RCW 13.32A.020.

**13.32A.194 At-risk youth petition—Court procedures.** (1) The court shall hold a fact-finding hearing to consider a proper at-risk youth petition. The court may grant the petition and enter an order finding the child to be an at-risk youth if the allegations in the petition are established by a preponderance of the evidence. The court shall not enter such an order if the court has approved an alternative residential placement petition regarding the child or if the child is the subject of a proceeding under chapter 13.34 RCW. If the petition is granted, the court shall enter an order requiring the child to reside in the home of his or her parent or in an alternative residential placement approved by the parent.

(2) The court may order the department to submit a dispositional plan if such a plan would assist the court in ordering a suitable disposition in the case. If the court orders the department to prepare a plan, the department shall provide copies of the plan to the parent, the child, and the court. If the parties or the court desire the department to be involved in any future proceedings or case plan development, the department shall be provided timely notification of all court hearings.

(3) A dispositional hearing shall be held no later than fourteen days after the court has granted an at-risk youth petition. Each party shall be notified of the time and date of the hearing.

(4) If the court grants or denies an at-risk youth petition, a statement of the written reasons shall be entered into the records. If the court denies an at-risk youth petition, the court shall verbally advise the parties that the child is required to remain within the care, custody, and control of his or her parent. [1990 c 276 § 13.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.196 At-risk youth petition—Dispositional hearing.** (1) At the dispositional hearing regarding an adjudicated at-risk youth, the court shall consider the recommendations of the parties and the recommendations of any dispositional plan submitted by the department. The court may enter a dispositional order that will assist the parent in maintaining the care, custody, and control of the child and assist the family to resolve family conflicts or problems.

(2) The court may set conditions of supervision for the child that include:

- (a) Regular school attendance;
- (b) Counseling;
- (c) Participation in a substance abuse treatment program;
- (d) Reporting on a regular basis to the department or any other designated person or agency; and
- (e) Any other condition the court deems an appropriate condition of supervision.

(3) No dispositional order or condition of supervision ordered by a court pursuant to this section shall include involuntary commitment of a child for substance abuse or mental health treatment.

(4) The court may order the parent to participate in counseling services or any other services for the child requiring parental participation. The parent shall cooperate with the court-ordered case plan and shall take necessary steps to help implement the case plan. The parent shall be financially responsible for costs related to the court-ordered plan; however, this requirement shall not affect the eligibility of the parent or child for public assistance or other benefits to which the parent or child may otherwise be entitled. The parent may request dismissal of an at-risk youth proceeding at any time and upon such a request, the court shall dismiss the matter and cease court supervision of the child unless a contempt action is pending in the case. The court may retain jurisdiction over the matter for the purpose of concluding any pending contempt proceedings, including the full satisfaction of any penalties imposed as a result of a contempt finding.

(5) The court may order the department to monitor compliance with the dispositional order, assist in coordinating the provision of court-ordered services, and submit reports at subsequent review hearings regarding the status of the case. [1991 c 364 § 14; 1990 c 276 § 14.]

**Findings—Construction—Conflict with federal requirements—1991 c 364:** See notes following RCW 70.96A.020.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.198 At-risk youth—Review by court.** (1) Upon making a disposition regarding an adjudicated at-risk youth, the court shall schedule the matter on the calendar for review within three months, advise the parties of the date thereof, appoint legal counsel for the child, advise the parent of the right to be represented by legal counsel at the review hearing at the parent's own expense, and notify the parties of their rights to present evidence at the hearing.

(2) At the review hearing, the court shall approve or disapprove the continuation of court supervision in accordance with the goal of assisting the parent to maintain the care, custody, and control of the child. The court shall determine whether the parent and child are complying with the dispositional plan. If court supervision is continued, the court may modify the dispositional plan.

(3) Court supervision of the child may not be continued past one hundred eighty days from the day the review hearing commenced unless the court finds, and the parent agrees, that there are compelling reasons for an extension of supervision. Any extension granted pursuant to this subsection shall not exceed ninety days.

(4) The court may dismiss an at-risk youth proceeding at any time if the court finds good cause to believe that continuation of court supervision would serve no useful purpose or that the parent is not cooperating with the court-ordered case plan. The court shall dismiss an at-risk youth proceeding if the child is the subject of a proceeding under chapter 13.34 RCW. [1990 c 276 § 15.]

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.210 Foster home placement—Parental preferences.** In an attempt to minimize the inherent intrusion in the lives of families involved in the foster care system and to maintain parental authority where appropriate, the department, absent good cause, shall follow the wishes of the natural parent regarding the placement of the child. Preferences such as family constellation, ethnicity, and religion shall be given consideration when matching children to foster homes. Parental authority is appropriate in areas that are not connected with the abuse or neglect that resulted in the dependency and should be integrated through the foster care team. [1990 c 284 § 24.]

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**13.32A.250 Failure to comply with order as contempt—Motion—Penalties.** (1) In all alternative residential placement proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter. The court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a contempt of court as provided in chapter 7.21 RCW, subject to the limitations of \*subsection (2) of this section.

(3) The court may impose a fine of up to one hundred dollars and imprisonment for up to seven days, or both for contempt of court under this section.

(4) A child imprisoned for contempt under this section shall be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(5) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter. [1990 c 276 § 16. Prior: 1989 c 373 § 16; 1989 c 269 § 4; 1981 c 298 § 14.]

**\*Reviser's note:** The reference to subsection (2) of this section apparently should be to subsection (3) of this section.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1989 c 373:** See RCW 7.21.900.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

### Chapter 13.34

## JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

### Sections

- 13.34.020 Legislative declaration of family unit as resource to be nurtured—Rights of child.  
13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release.

- 13.34.070 Summons when petition filed—Service procedure—Hearing, when—Contempt upon failure to appear.  
13.34.080 Summons when petition filed—Publication of.  
13.34.090 Inherent rights under chapter proceedings.  
13.34.110 Hearings, fact-finding and disposition—Time and place, notice—Not generally public—Notes and records.  
13.34.130 Order of disposition for certain dependent children, alternatives—Later review hearing—Petition seeking termination of parent-child relationship.  
13.34.150 Modification of orders.  
13.34.180 Order terminating parent and child relationship—Petition for—Filing—Allegations.  
13.34.190 Order terminating parent and child relationship—Hearings—Granting of, when.  
13.34.210 Order terminating parent and child relationship—Custody where no one has parental rights.  
13.34.260 Foster home placement—Parental preferences.

*Therapeutic family home program for youth in custody under chapter 13.34 RCW: RCW 74.13.170.*

**13.34.020 Legislative declaration of family unit as resource to be nurtured—Rights of child.** The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter. [1990 c 284 § 31; 1987 c 524 § 2; 1977 ex.s. c 291 § 30.]

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release.** (1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing.

The court shall hold a shelter care hearing within seventy-two hours after the child is taken into custody, excluding Saturdays, Sundays, and holidays. If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, that such waiver is knowing and voluntary.

(2) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parents, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title as soon as possible and in no event longer than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody. The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

The written notice of custody and rights shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody. You should call the court at ...(insert appropriate phone number here)... for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: ...(explain local procedure)....

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: ...(insert name and telephone number)..."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by

signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under subsection (2) of this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in subsections (2) and (3) of this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the juvenile court counselor or caseworker shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

(5) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived in court.

(6) The court shall hear evidence regarding notice given to, and efforts to notify, the parent, guardian, or legal custodian and shall examine the need for shelter care. The court shall make an express finding as to whether the notice required under subsections (2) and (3) of this section was given to the parent, guardian, or legal custodian. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care. Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(7) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except that such recommendation shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(8) The court shall release a child alleged to be dependent to the care, custody, and control of the child's

parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(b)(i) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(ii) The release of such child would present a serious threat of substantial harm to such child; or

(iii) The parent, guardian, or custodian to whom the child could be released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. The court shall enter a finding as to whether subsections (2) and (3) of this section have been complied with. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090.

(9) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(10) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(11) Any parent, guardian, or legal custodian who for good cause is unable to attend the initial shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. The hearing shall be held within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means. [1990 c 246 § 1; 1987 c 524 § 4. Prior: 1984 c 188 § 3; 1984 c 95 § 5; 1983 c 246 § 1; 1982 c 129 § 5; 1979 c 155 § 39; 1977 ex.s. c 291 § 34.]

**Severability—1990 c 246:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 246 § 11.]

**Severability—1984 c 95:** See note following RCW 9A.40.060.

**Severability—1982 c 129:** See note following RCW 9A.04.080.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.070 Summons when petition filed—Service procedure—Hearing, when—Contempt upon failure to appear.** (1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances do exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or [her] right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(6) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (4) or (5) of this section, and if the person fails to abide by the order, he may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

**NOTICE:  
VIOLATION OF THIS ORDER  
IS SUBJECT TO PROCEEDING  
FOR CONTEMPT OF COURT  
PURSUANT TO RCW 13.34.070.**

(7) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following

the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(8) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(9) In any proceeding brought under this chapter where the court knows or has reason to know that the child involved is a member of an Indian tribe, notice of the pendency of the proceeding shall also be sent by registered mail, return receipt requested, to the child's tribe. If the identity or location of the tribe cannot be determined, such notice shall be transmitted to the secretary of the interior of the United States. [1990 c 246 § 2; 1988 c 194 § 2; 1983 c 311 § 3; 1983 c 3 § 16; 1979 c 155 § 40; 1977 ex.s. c 291 § 35; 1913 c 160 § 6; RRS § 1987-6. Formerly RCW 13.04.070.]

**Severability**—1990 c 246: See note following RCW 13.34.060.

**Legislative finding**—1983 c 311: See note following RCW 13.34.030.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

**13.34.080 Summons when petition filed—Publication of.** In a dependency case where it appears by the petition or verified statement, that the person standing in the position of natural or legal guardian of the person of any child, is a nonresident of this state, or that the name or place of residence or whereabouts of such person is unknown, as well as in all cases where, after due diligence, the officer has been unable to make service of the summons or notice provided for in RCW 13.34.070, and a copy of the notice has been deposited in the post office, postage prepaid, directed to such person at his last known place of residence, the court shall direct the clerk to publish notice in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, with the first publication of the notice to be at least twenty-five days prior to the date fixed for the hearing. If the parent, guardian, or legal custodian is believed to be a resident of another state or a county other than the county in which the petition has been filed, notice also shall be published in the county in

which the parent, guardian, or legal custodian is believed to reside. Additionally, publication may proceed simultaneously with efforts to provide personal service or service by mail for good cause shown, when there is reason to believe that personal service or service by mail will not be successful. Such notice shall be directed to the parent, parents, or other person claiming the right to the custody of the child, if their names are known, or if unknown, the phrase "To whom it may concern" shall be used and apply to, and be binding upon, any such persons whose names are unknown. The name of the court, the name of the child (or children if of one family), the date of the filing of the petition, the date of hearing, and the object of the proceeding in general terms shall be set forth, and the whole shall be subscribed by the clerk. There shall be filed with the clerk an affidavit showing due publication of the notice, and the cost of publication shall be paid by the county at not to exceed the rate paid by the county for other legal notices. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated as provided in this section. [1990 c 246 § 3; 1988 c 201 § 1; 1979 c 155 § 41; 1977 ex.s. c 291 § 36; 1961 c 302 § 4; 1913 c 160 § 7; RRS § 1987-7. Formerly RCW 13.04.080.]

**Severability**—1990 c 246: See note following RCW 13.34.060.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

### **13.34.090 Inherent rights under chapter proceedings.**

(1) Any party has a right to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.

(2) At all stages of a proceeding in which a child is alleged to be dependent pursuant to RCW 13.34.030(2), the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court. Unless waived in court, counsel shall be provided to the child's parent, guardian, or legal custodian, if such person (a) has appeared in the proceeding or requested the court to appoint counsel and (b) is financially unable to obtain counsel because of indigency as defined in chapter 10.101 RCW.

(3) If a party to an action under this chapter is represented by counsel, no order shall be provided to that party for his or her signature without prior notice and provision of the order to counsel.

(4) Copies of department of social and health services or supervising agency records to which parents have legal access pursuant to chapter 13.50 RCW shall be given to the child's parent, guardian, legal custodian, or his or her legal counsel, within twenty days after the department or supervising agency receives a written request for such records from the parent, guardian, legal custodian, or his or her legal counsel. These records shall

be provided to the child's parents, guardian, legal custodian, or legal counsel prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the parents, guardian, legal custodian, or his or her counsel. [1990 c 246 § 4; 1979 c 155 § 42; 1977 ex.s. c 291 § 37.]

**Severability**—1990 c 246: See note following RCW 13.34.060.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

*Notice of rights: RCW 26.44.105.*

**13.34.110 Hearings, fact-finding and disposition—Time and place, notice—Not generally public—Notes and records.** The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor, and after it has announced its findings of fact shall hold a hearing to consider disposition of the case immediately following the fact-finding hearing or at a continued hearing within fourteen days or longer for good cause shown. The parties need not appear at the fact-finding or dispositional hearing if all are in agreement; but the court shall receive and review a social study before entering an order based on agreement. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases may not be heard in conjunction with other business of any other division of the superior court. The general public shall be excluded, and only such persons may be admitted who are found by the judge to have a direct interest in the case or in the work of the court. If a child resides in foster care or in the home of a relative pursuant to a disposition order entered under RCW 13.34.130, the court may allow the child's foster parent or relative care provider to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

Stenographic notes or any device which accurately records the proceedings may be required as provided in other civil cases pursuant to RCW 2.32.200. [1991 c 340 § 3; 1983 c 311 § 4; 1979 c 155 § 44; 1977 ex.s. c 291 § 39; 1961 c 302 § 5. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part. Formerly RCW 13.04.091.]

**Legislative finding**—1983 c 311: See note following RCW 13.34.030.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

**13.34.130 Order of disposition for certain dependent children, alternatives—Later review bearing—Petition seeking termination of parent-child relationship.** If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that:

(i) There is no parent or guardian available to care for such child;

(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iii) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to RCW 13.34.130(1)(b), the court may order that a petition seeking termination of the parent and child relationship be filed if the court

finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of assault of the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanent plan of care that may include one of the following: Return of the child to the home of the child's parent, adoption, guardianship, or long-term placement with a relative or in foster care with a written agreement.

(b) Unless the court has ordered, pursuant to RCW 13.34.130(2), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to RCW 13.34.130(2), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. [1991 c 127 § 4. Prior: 1990 c 284 § 32; 1990 c 246 § 5; 1989 1st ex.s. c 17 § 17; prior: 1988 c 194 § 1; 1988 c 190 § 2; 1988 c 189 § 2; 1984 c 188 § 4; prior: 1983 c 311 § 5; 1983 c 246 § 2; 1979 c 155 § 46; 1977 ex.s. c 291 § 41.]

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Legislative finding—1983 c 311:** See note following RCW 13.34.030.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**Citizen review board system—Purpose—Application of administrative procedures and standards:** RCW 13.70.003.

**13.34.150 Modification of orders.** Any order made by the court in the case of a dependent child may be changed, modified, or set aside, only upon a showing of a change in circumstance. [1990 c 246 § 6; 1977 ex.s. c 291 § 43; 1913 c 160 § 15; RRS § 1987-15. Formerly RCW 13.04.150.]

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.180 Order terminating parent and child relationship—Petition for—Filing—Allegations.** A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(7), and shall allege:

(1) That the child has been found to be a dependent child under RCW 13.34.030(2); and

(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and

(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home;

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

#### "NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact:           (explain local procedure)          

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call           (insert agency)           for more information about your child. The agency's name and telephone number are           (insert name and telephone number)          

[1990 c 246 § 7; 1988 c 201 § 2; 1987 c 524 § 6; 1979 c 155 § 47; 1977 ex.s. c 291 § 46.]

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.190 Order terminating parent and child relationship—Hearings—Granting of, when.** After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1) The allegations contained in the petition as provided in RCW 13.34.180 (1) through (6) are established by clear, cogent, and convincing evidence; or

(2) RCW 13.34.180 (3) and (4) may be waived because the allegations under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a reasonable doubt; or

(c) [(3)] The allegation under RCW 13.34.180(7) is established beyond a reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are established beyond a reasonable doubt, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 or 9A.42.030;

(c) Conviction of the parent of assault of the child in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in \*RCW 9A.88.010;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim; and

(3) [(4)] Such an order is in the best interests of the child. [1990 c 284 § 33; 1979 c 155 § 48; 1977 ex.s. c 291 § 47.]

\*Reviser's note: Sexually violent predator is defined in RCW 71.09.020.

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.210 Order terminating parent and child relationship—Custody where no one has parental rights.** If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department of social and health services or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption,

or in the absence thereof in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a general guardian of the child has not been appointed by the court, the child shall be returned to the court for entry of further orders for his or her care, custody, and control, and, except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the court shall review the case every six months thereafter until a decree of adoption is entered. [1991 c 127 § 6; 1988 c 203 § 2; 1979 c 155 § 49; 1977 ex.s. c 291 § 49.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.260 Foster home placement—Parental preferences.** In an attempt to minimize the inherent intrusion in the lives of families involved in the foster care system and to maintain parental authority where appropriate, the department, absent good cause, shall follow the wishes of the natural parent regarding the placement of the child. Preferences such as family constellation, ethnicity, and religion shall be given consideration when matching children to foster homes. Parental authority is appropriate in areas that are not connected with the abuse or neglect that resulted in the dependency and should be integrated through the foster care team. [1990 c 284 § 25.]

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Chapter 13.40**

**JUVENILE JUSTICE ACT OF 1977**

Sections	
13.40.020	Definitions.
13.40.110	Hearing on question of declining jurisdiction—Held, when—Findings.
13.40.135	Sexual motivation special allegation—Procedures.
13.40.150	Disposition hearing —Scope—Factors to be considered prior to entry of dispositional order.
13.40.160	Disposition order—Court's action prescribed—Disposition outside standard range, when—Right of appeal, when—Special sex offender disposition alternative.
13.40.205	Release from physical custody, when—Authorized leaves—Leave plan and order—Notice.
13.40.210	Setting of release or discharge date—Administrative release authorized, when—Parole program, revocation or modification of, scope—Parole officer's right of arrest.
13.40.215	Juveniles found to have committed sex or violent offense—Notification of discharge, parole, leave, release, transfer, or escape—To whom given—Definitions.

- 13.40.217 Juveniles adjudicated of sex offenses—Release of information authorized.
- 13.40.310 Transitional treatment program for gang and drug-involved juvenile offenders.

**13.40.020 Definitions.** For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree; or

(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses and include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(c) Attendance of information classes;

(d) Counseling; or

(e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(5) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(6) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to

the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040, as now or hereafter amended, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(9) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(10) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(12) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(13) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(14) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; residential burglary; vehicular homicide; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(15) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily

ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(18) "Secretary" means the secretary of the department of social and health services;

(19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(20) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(21) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(22) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(23) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration. [1990 1st ex.s. c 12 § 1; 1990 c 3 § 301; 1989 c 407 § 1; 1988 c 145 § 17; 1983 c 191 § 7; 1981 c 299 § 2; 1979 c 155 § 54; 1977 ex.s. c 291 § 56.]

**Effective date**—1990 1st ex.s. c 12: "This act shall take effect July 1, 1990." [1990 1st ex.s. c 12 § 5.]

**Index, part headings not law**—**Severability**—**Effective dates**—**Application**—1990 c 3: See RCW 18.155.900 through 18.155.902.

**Effective date**—**Savings**—**Application**—1988 c 145: See notes following RCW 9A.44.010.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

**13.40.110 Hearing on question of declining jurisdiction—Held, when—Findings.** (1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction. Unless waived by the court, the parties, and their counsel, a decline hearing shall be held where:

(a) The respondent is fifteen, sixteen, or seventeen years of age and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony; or

(b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree.

(2) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(3) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing. [1990 c 3 § 303; 1988 c 145 § 18; 1979 c 155 § 63; 1977 ex.s. c 291 § 65.]

**Index, part headings not law**—**Severability**—**Effective dates**—**Application**—1990 c 3: See RCW 18.155.900 through 18.155.902.

**Effective date**—**Savings**—**Application**—1988 c 145: See notes following RCW 9A.44.010.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

**13.40.135 Sexual motivation special allegation—Procedures.** (1) The prosecuting attorney shall file a special allegation of sexual motivation in every juvenile offense other than sex offenses as defined in RCW 9.94A.030(29) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably consistent defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective factfinder.

(2) In a juvenile case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the juvenile committed the offense with a sexual motivation. The court shall make a finding of fact of whether or not the sexual motivation was present at the time of the commission of the offense. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030(29) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of "sexual motivation" without approval of the court through an order of dismissal. The court shall not dismiss the special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful. [1990 c 3 § 604.]

**Effective date**—**Application**—1990 c 3 §§ 601–605: See note following RCW 9.94A.127.

**Index, part headings not law**—**Severability**—**Effective dates**—**Application**—1990 c 3: See RCW 18.155.900 through 18.155.902.

**13.40.150 Disposition hearing—Scope—Factors to be considered prior to entry of dispositional order.** (1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and

controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

(a) Violations which are current offenses count as misdemeanors;

(b) Violations may not count as part of the offender's criminal history;

(c) In no event may a disposition for a violation include confinement.

(3) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender, a middle offender, or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

(i) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The victim or victims were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement;

(v) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127;

(vi) The respondent was the leader of a criminal enterprise involving several persons; and

(vii) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history.

(4) The following factors may not be considered in determining the punishment to be imposed:

(a) The sex of the respondent;

(b) The race or color of the respondent or the respondent's family;

(c) The creed or religion of the respondent or the respondent's family;

(d) The economic or social class of the respondent or the respondent's family; and

(e) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter.

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community. [1990 c 3 § 605; 1981 c 299 § 12; 1979 c 155 § 67; 1977 ex.s. c 291 § 69.]

**Effective date—Application—1990 c 3 §§ 601–605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.160 Disposition order—Court's action prescribed—Disposition outside standard range, when—Right of appeal, when—Special sex offender disposition alternative.** (1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D–3, RCW 13.40.0357 except as provided in subsection (5) of this section.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D–3, RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 as now or hereafter amended.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsection (5) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW 13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, a disposition may be appealed as provided in RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230 as now or hereafter amended.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2) as now or hereafter amended.

(4) If a respondent is found to be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of this section: **PROVIDED**, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 as now or hereafter amended.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230, as now or

hereafter amended, by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 as now or hereafter amended.

(5) When a serious, middle, or minor first offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (iv) Anticipated length of treatment; and
- (v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, and the court may suspend the execution of the disposition and place the offender on community supervision for up to two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

- (b)(i) Devote time to a specific education, employment, or occupation;
- (ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender

treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof; or

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

After July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the sentence. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(6) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(7) Except as provided for in subsection (5) of this section, the court shall not suspend or defer the imposition or the execution of the disposition.

(8) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense. [1990 c 3 § 302; 1989 c 407 § 4; 1983 c 191 § 8; 1981 c 299 § 13; 1979 c 155 § 68; 1977 ex.s. c 291 § 70.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

#### **13.40.205 Release from physical custody, when—Authorized leaves—Leave plan and order—Notice.**

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all pre-minimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the

appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family, the secretary shall give notice of any leave to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Notwithstanding the provisions of this section, a juvenile placed in minimum security status may participate in work, educational, community service, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence.

(11) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215 [1990 c 3 § 103; 1983 c 191 § 10.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**13.40.210 Setting of release or discharge date—Administrative release authorized, when—Parole program, revocation or modification of, scope—Parole officer's right of arrest.** (1) The secretary shall, except in the case of a juvenile committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the juvenile was found to be guilty established pursuant to RCW 13.40.030, as now or hereafter amended, set a release or discharge date for each juvenile committed to its custody which shall be within the prescribed range to which a juvenile has been committed. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter: **PROVIDED**, That days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities.

When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the end of each calendar year if any such early releases have occurred during that year as a result of excessive in-residence population. In no event shall a serious offender, as defined in RCW 13.40.020(1) be granted release under the provisions of this subsection.

(3) Following the juvenile's release pursuant to subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months. A parole program is mandatory for offenders released under subsection (2) of this section. The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal may require the juvenile to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address; and (e) refrain from committing new offenses. After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (a) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision authorized by this chapter; (d) except as provided in (e) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or

county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; and (e) the secretary may order any of the conditions or may return the offender to confinement in an institution for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest such person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section. [1990 c 3 § 304; 1987 c 505 § 4; 1985 c 287 § 1; 1985 c 257 § 4; 1983 c 191 § 11; 1979 c 155 § 71; 1977 ex.s. c 291 § 75.]

**Index, part beadings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Intent—1985 c 257 § 4:** "To promote both public safety and the welfare of juvenile offenders, it is the intent of the legislature that services to juvenile offenders be delivered in the most effective and efficient means possible. Section 4 of this act facilitates those objectives by permitting counties to supervise parole of juvenile offenders. This is consistent with the philosophy of chapter 13.06 RCW to deliver community services to juvenile offenders comprehensively at the county level." [1985 c 257 § 3.] Section 4 of this act consists of the 1985 c 257 amendment to RCW 13.40.210.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.215 Juveniles found to have committed sex or violent offense—Notification of discharge, parole, leave, release, transfer, or escape—To whom given—Definitions.** (1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than ten days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense or a sex offense, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(2)(a) If a juvenile found to have committed a violent offense or a sex offense escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent or sex offense, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

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

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

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

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

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children. [1990 c 3 § 101.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**13.40.217 Juveniles adjudicated of sex offenses—Release of information authorized.** In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning juveniles adjudicated of sex offenses. [1990 c 3 § 102.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**13.40.310 Transitional treatment program for gang and drug-involved juvenile offenders.** (1) The department of social and health services may contract with a community-based nonprofit organization to establish a three-step transitional treatment program for gang and drug-involved juvenile offenders committed to the custody of the department under chapter 13.40 RCW. Any such program shall provide six to twenty-four months of treatment. The program shall emphasize the principles of self-determination, unity, collective work and responsibility, cooperative economics, and creativity. The program shall be culturally relevant and appropriate and shall include:

(a) A culturally relevant and appropriate institution-based program that provides comprehensive drug and alcohol services, individual and family counseling, and a wilderness experience of constructive group living, rigorous physical exercise, and academic studies;

(b) A culturally relevant and appropriate community-based structured group living program that focuses on individual goals, positive community involvement, coordinated drug and alcohol treatment, coordinated individual and family counseling, academic and vocational training, and employment in apprenticeship, internship, and entrepreneurial programs; and

(c) A culturally relevant and appropriate transitional group living program that provides support services, academic services, and coordinated individual and family counseling.

(2) Participation in any such program shall be on a voluntary basis.

(3) The department shall adopt rules as necessary to implement any such program. [1991 c 326 § 4.]

**Finding—1991 c 326:** "The legislature finds that a destructive lifestyle of drug and street gang activity is rapidly becoming prevalent among some of the state's youths. Gang and drug activity may be a culturally influenced phenomenon which the legislature intends public and private agencies to consider and address in prevention and treatment programs. Gang and drug-involved youths are more likely to become addicted to drugs or alcohol, live in poverty, experience high unemployment, be incarcerated, and die of violence than other youths." [1991 c 326 § 3.]

**Part headings not law—Severability—1991 c 326:** See RCW 71.36.900 and 71.36.901.

**Chapter 13.50**

**KEEPING AND RELEASE OF RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES**

**Sections**

- 13.50.010 Definitions—Conditions when filing petition or information—Duties to maintain accurate records and access.
- 13.50.050 Records relating to commission of juvenile offenses—Maintenance of and access thereto or the destroying thereof.
- 13.50.100 Records not relating to commission of juvenile offenses—Maintenance and access.

**13.50.010 Definitions—Conditions when filing petition or information—Duties to maintain accurate records and access.** (1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, and persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to insure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may

make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment, or to individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the juvenile disposition standards commission under RCW 13.40.025 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission. [1990 c 246 § 8; 1986 c 288 § 11; 1979 c 155 § 8.]

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Severability—1986 c 288:** See note following RCW 13.32A.050.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.50.050 Records relating to commission of juvenile offenses—Maintenance of and access thereto or the destroying thereof.** (1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any

juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall, subject to subsection (24) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (24) of this section.

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any conviction for any adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW for any juvenile adjudication of guilt for a class A offense or a sex offense as defined in RCW 9.94A.030.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

(a) The person making the motion is at least twenty-three years of age;

(b) The person has not subsequently been convicted of a felony;

(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and

(d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (24) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall, subject to subsection (24) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(23) Any juvenile justice or care agency may, subject to the limitations in subsection (24) of this section and subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(24) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior. [1990 c 3 § 125; 1987 c 450 § 8; 1986 c 257 § 33; 1984 c 43 § 1; 1983 c 191 § 19; 1981 c 299 § 19; 1979 c 155 § 9.]

*Rules of court: Superior Court Criminal Rules (CrR), generally. Discovery: CrR 4.7.*

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.**

**Severability**—1986 c 257: See note following RCW 9A.56.010.

**Effective date**—1986 c 257 §§ 17–35: See note following RCW 9.94A.030.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

**13.50.100 Records not relating to commission of juvenile offenses—Maintenance and access.** (1) This section governs records not covered by RCW 13.50.050.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the state-wide juvenile court information system.

(4) A juvenile, his or her parents, the juvenile's attorney and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: **PROVIDED**, That if the court determines that limited release of the information is appropriate, the court may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile; or

(c) That the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported suspected child abuse or neglect.

(5) A juvenile or his or her parent denied access to any records following an agency determination under subsection (4) of this section may file a motion in juvenile court requesting access to the records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsections (4) (a) and (b) of this section.

(6) The person making a motion under subsection (5) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(7) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship

and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (4) of this section.

(8) Information concerning a juvenile or a juvenile's family contained in records covered by this section may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family. [1990 c 246 § 9; 1983 c 191 § 20; 1979 c 155 § 10.]

**Severability**—1990 c 246: See note following RCW 13.34.060.

**Effective date**—**Severability**—1979 c 155: See notes following RCW 13.04.011.

## Chapter 13.70

### SUBSTITUTE CARE OF CHILDREN—REVIEW BOARD SYSTEM

Sections	
13.70.005	Periodic case review required (as amended by 1991 c 127).
13.70.005	Periodic case review required (as amended by 1991 c 363).
13.70.010	Definitions.
13.70.110	Child in substitute care under dependency proceeding—Procedures—Review.
13.70.150	Indian children—Local Indian child welfare advisory committee may serve as citizen review board.
13.70.900	Repealed.

**13.70.005 Periodic case review required (as amended by 1991 c 127).** Periodic case review of all children in substitute care shall be provided in ~~((at least one class 1 or higher county))~~ counties designated by the office of the administrator for the courts, in accordance with this chapter and within funding provided by the legislature.

The administrator for the courts shall coordinate and assist in the administration of the local citizen review board pilot program created by this chapter. [1991 c 127 § 2; 1989 1st ex.s. c 17 § 2.]

**13.70.005 Periodic case review required (as amended by 1991 c 363).** Periodic case review of all children in substitute care shall be provided in at least one ~~((class 1 or higher))~~ county with a population of one hundred twenty-five thousand or more, in accordance with this chapter.

The administrator for the courts shall coordinate and assist in the administration of the local citizen review board pilot program created by this chapter. [1991 c 363 § 14; 1989 1st ex.s. c 17 § 2.]

**Reviser's note:** RCW 13.70.005 was amended twice during the 1991 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**13.70.010 Definitions.** Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the local citizen review board established pursuant to this chapter.

(2) "Child" means a person less than eighteen years of age.

(3) "Committee" means a local Indian child welfare advisory committee established pursuant to WAC 388-70-610, as now existing or hereafter amended by the department.

(4) "Conflict of interest" means that a person appointed to a board has a personal or pecuniary interest in a case being reviewed by that board.

(5) "Court" means the juvenile court.

(6) "Custodian" means that person who has legal custody of the child.

(7) "Department" means the department of social and health services.

(8) "Mature child" means a child who is able to understand and participate in the decision-making process without excessive anxiety or fear. A child twelve years old or over shall be rebuttably presumed to be a mature child.

(9) "Parent" or "parents" means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings.

(10) "Placement episode" means the period of time that begins with the date the child was removed from the home of the parent or legal custodian for the purposes of placement in substitute care and continues until the child returns home or an adoption decree or guardianship order is entered.

(11) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings, or documents pertaining to a case.

(12) "Resides" or "residence," when used in reference to the residence of a child, means the place where the child is actually living and not the legal residence or domicile of the parent or guardian.

(13) "Substitute care" means an out-of-home placement of a child for purposes related to the provision of child welfare services in accordance with chapter 74.13 RCW where the child is in the care, custody, and control of the department pursuant to a proceeding under chapter 13.34 RCW or pursuant to the written consent of the child's parent or parents or custodian. [1991 c 127 § 3; 1989 1st ex.s. c 17 § 3.]

**13.70.110 Child in substitute care under dependency proceeding—Procedures—Review.** (1) This section shall apply to cases where a child has been placed in substitute care pursuant to a proceeding under chapter 13.34 RCW.

(2) Within forty-five days following commencement of the placement episode, the court shall assign the child's case to a board and forward to the board a copy of the dependency petition and any shelter care or dependency disposition orders which have been entered in the case by the court.

(3) The board shall review the case plan for each child whose case is assigned to the board by the court. The review shall take place at times set by the board. The first review shall occur within ninety days following commencement of the placement episode. The second review shall occur within six months following commencement of the placement episode. The next review shall occur within one year after commencement of the placement episode. Within eighteen months following commencement of the placement episode, a permanency planning hearing shall be held before the court in accordance with RCW 13.34.145. Thereafter, the court

shall assign the child's case for a board review or a court review hearing pursuant to RCW 13.34.130(5). A board review or a court review hearing shall take place at least once every six months until the child is no longer within the jurisdiction of the court or no longer in substitute care or until a guardianship order or adoption decree is entered. After the permanency planning hearing, a court review hearing must occur at least once a year as provided in RCW 13.34.130. The board shall review any case where a petition to terminate parental rights has been denied, and such review shall occur as soon as practical but no later than forty-five days after the denial.

(4) The board shall prepare written findings and recommendations with respect to:

(a) Whether reasonable efforts were made before the placement to prevent or eliminate the need for removal of the child from the home, including whether consideration was given to removing the alleged offender, rather than the child, from the home;

(b) Whether reasonable efforts have been made subsequent to the placement to make it possible for the child to be returned home;

(c) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(d) Whether there is a continuing need for placement and whether the placement is appropriate;

(e) Whether there has been compliance with the case plan;

(f) Whether progress has been made toward alleviating the need for placement;

(g) A likely date by which the child may be returned home or other permanent plan of care may be implemented; and

(h) Other problems, solutions, or alternatives the board determines should be explored.

(5) Within ten working days following the review, the board shall send a copy of its findings and recommendations to the parents and their attorneys, the child's custodians and their attorneys, mature children and their attorneys, other attorneys or guardians ad litem appointed by the court to represent children, the department and other child placement agencies directly responsible for supervising the child's placement, and any prosecuting attorney or attorney general actively involved in the case. If the child is an Indian as defined in the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of the board's findings and recommendations shall also be sent to the child's Indian tribe.

(6) If the department is unable or unwilling to implement the board recommendations, the department shall submit to the board, within ten working days after receipt of the findings and recommendations, an implementation report setting forth the reasons why the department is unable or unwilling to implement the board's recommendations. The report will also set forth the case plan which the department intends to implement.

(7) Within forty-five days following the review, the board shall either:

(a) Schedule the case for further review by the board; or

(b) Submit to the court the board's findings and recommendations and the department's implementation reports, if any. If the board's recommendations are different from the existing court-ordered case plan, the board shall also file with the court a motion for a review hearing.

(8) Within ten days of receipt of the board's written findings and recommendations and the department's implementation report, if any, the court shall review the findings and recommendations and implementation reports, if any. The court may on its own motion schedule a review hearing.

(9) Unless modified by subsequent court order, the court-ordered case plan and court orders that are in effect at the time that a board reviews a case shall remain in full force and effect. Board findings and recommendations are advisory only and do not in any way modify existing court orders or court-ordered case plans.

(10) The findings and recommendations of the board and the department's implementation report, if any, shall become part of the department's case file and the court social file pertaining to the child.

(11) Nothing in this section shall limit or otherwise modify the rights of any party to a dependency proceeding to request and receive a court review hearing pursuant to the provisions of chapter 13.34 RCW or applicable court rules. [1991 c 127 § 5; 1989 1st ex.s. c 17 § 13.]

**13.70.150 Indian children—Local Indian child welfare advisory committee may serve as citizen review board.** (1) If a case involves an Indian child, as defined by 25 U.S.C. Sec. 1903 or by department rule or policy, the court may appoint the local Indian child welfare advisory committee to serve as the citizen review board for the case unless otherwise requested by the child's tribe or by the local Indian child welfare advisory committee.

(2) The provisions of RCW 13.70.030, 13.70.040, 13.70.050, and 13.70.090(1) shall not apply to cases in which the court has appointed a committee to serve as a citizen review board. All other provisions of this chapter shall apply to such cases.

(3) Within ten days following court appointment of a committee to serve as a citizen review board for a particular case, the committee shall notify the court whether the committee will accept the case for review. If the committee accepts a case for review, the committee shall conduct the review in accordance with the requirements of this chapter except as otherwise provided in this section. If the committee does not accept a case for review, the court shall immediately reassign the case to an available board.

(4) The requirements of this chapter do not affect tribal sovereignty and shall not apply to cases involving Indian children who are under tribal court jurisdiction or wardship. [1991 c 127 § 1.]

**13.70.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Title 14 AERONAUTICS

### Chapters

**14.08 Municipal airports—1945 act.**

### Chapter 14.08

### MUNICIPAL AIRPORTS—1945 ACT

#### Sections

14.08.120 Specific powers of municipalities operating airports.

**14.08.120 Specific powers of municipalities operating airports.** In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

(1) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to be appointed by the governing board of the municipality by an ordinance or resolution that includes (a) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, (b) the method of appointment and filling vacancies, (c) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, (d) the powers and duties of the commission, and (e) any other matters necessary to the exercise of the powers relating to industrial and commercial development. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, and regulation are the responsibility of the municipality.

(2) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution,

as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

(3) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

(4) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements, or equipment of such airports; to authorize its lessees to construct, alter, repair, or improve the leased premises at the cost of the lessee and to reimburse its lessees for such cost, provided the cost is paid solely out of funds fully collected from the airport's tenants; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: **PROVIDED**, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(5) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or

the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under subsection (1) of this section, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission. Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed seventy-five years, but any such lease of real property made for a longer period than ten years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least thirty days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

(6) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and conditions under which such properties may be used: **PROVIDED**, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and

enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

(7) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section. [1990 c 215 § 1; 1984 c 7 § 5; 1961 c 74 § 2; 1959 c 231 § 2; 1957 c 14 § 1. Prior: 1953 c 178 § 1; 1945 c 182 § 8; Rem. Supp. 1945 § 2722-37. Formerly RCW 14.08.120 through 14.08.150 and 14.08.320.]

**Severability**—1984 c 7: See note following RCW 47.01.141.

**Continuation of existing law**—1957 c 14: "The provisions of section 1 of this act shall be construed as a restatement and continuation of existing law, and not as a new enactment. It shall not be construed as affecting any existing right acquired under its provisions, nor as affecting any proceeding instituted thereunder." [1957 c 14 § 2.] This applies to RCW 14.08.120.

**Validating**—1957 c 14: "The provisions of section 1 of this act are retroactive and any actions or proceedings had or taken under the provisions of RCW 14.08.120 through 14.08.150 or 14.08.320 are hereby ratified, validated and confirmed." [1957 c 14 § 3.]

**Appointment of police officers by port districts operating airports:** RCW 53.08.280.

## Title 15

### AGRICULTURE AND MARKETING

#### Chapters

- 15.04 General provisions.
- 15.09 Horticultural pest and disease board.
- 15.13 Horticultural plants and facilities—Inspection and licensing.
- 15.17 Standards of grades and packs.
- 15.26 Tree fruit research act.
- 15.32 Dairies and dairy products.
- 15.35 Washington state milk pooling act.
- 15.36 Fluid milk.
- 15.52 Washington animal remedy act.
- 15.58 Washington pesticide control act.
- 15.60 Apiaries.
- 15.74 Hardwoods commission.
- 15.76 Agricultural fairs, youth shows, exhibitions.
- 15.80 Weighmasters.
- 15.90 Wild mushroom harvesting and processing.
- 15.92 Center for sustaining agriculture and natural resources.

#### Chapter 15.04

##### GENERAL PROVISIONS

###### Sections

- 15.04.400 Findings—Department's duty to promote agriculture.
- 15.04.402 Department to advance private sector.

**15.04.400 Findings**—Department's duty to promote agriculture. The history, economy, culture, and the future of Washington state to a large degree all involve agriculture, which is vital to the economic well-being of the state. The legislature finds that farmers and ranchers are responsible stewards of the land, but are increasingly subjected to complaints and unwarranted restrictions

that encourage, and even force, the premature removal of lands from agricultural uses.

The legislature further finds that it is now in the overriding public interest that support for agriculture be clearly expressed and that adequate protection be given to agricultural lands, uses, activities, and operations.

The legislature further finds that the department of agriculture has a duty to promote and protect agriculture and its dependent rural community in Washington state. [1991 c 280 § 1.]

**15.04.402 Department to advance private sector.** The department shall seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber. Additionally, the department shall seek to maintain the economic well-being of the agricultural industry and its dependent rural community in Washington state. [1991 c 280 § 2.]

#### Chapter 15.09

##### HORTICULTURAL PEST AND DISEASE BOARD

###### Sections

- 15.09.080 Failure to control horticultural pests and diseases—Remedies.

**15.09.080 Failure to control horticultural pests and diseases—Remedies.** (1) Whenever the horticultural pest and disease control board finds that an owner of land has failed to control and prevent the spread of horticultural pests and diseases on his land, as is his duty under RCW 15.09.060, it shall provide such person with written notice, which notice shall identify the pests and diseases found to be present and shall order prompt control or disinfection action to be taken within a specified and reasonable time period.

(2) If the person to whom the notice is directed fails to take action in accordance with this notice, then the board shall perform or cause to be performed such measures as are necessary to control and prevent the spread of the pests and diseases on such property and the expense of this work shall be charged to such person. Any action that the board determines requires the destruction of infested plants, absent the consent of the owner, shall be subject to the provisions of subsection (3) of this section.

(3) In the event the owner of land fails to control and prevent the spread of horticultural pests and diseases as required by RCW 15.09.060, and the county horticultural pest and disease board determines that actions it has taken to control and prevent the spread of such pests or diseases has not been effective or the county horticultural pest and disease board determines that no reasonable measures other than removal of the plants will control and prevent the spread of such pests or diseases, the county horticultural pest and disease board may petition the superior court of the county in which the property is situated for an order directing the owner to show cause why the plants should not be removed at the owner's expense and for an order authorizing removal of

said infected plants. The petition shall state: (a) The legal description of the property on which the plants are located; (b) the name and place of residence, if known, of the owners of said property; (c) that the county horticultural pest and disease board has, through its officers or agents, inspected said property and that the plants thereon, or some of them, are infested with a horticultural pest or disease as defined by RCW 15.08.010; (d) the dates of all notices and orders delivered to the owners pursuant to this section; (e) that the owner has failed to control and prevent the spread of said horticultural pest or disease; and (f) that the county horticultural pest and disease board has determined that the measures taken by it have not controlled or prevented the spread of the pest or disease or that no reasonable measure can be taken that will control and prevent the spread of such pest or disease except removal of the plants. The petition shall request an order directing the owner to appear and show cause why the plants on said property shall not be removed at the expense of the owner, to be collected as provided in this chapter. The order to show cause shall direct the owner to appear on a date certain and show cause, if any, why the plants on the property described in the petition should not be removed at the owner's expense. The order to show cause and petition shall be served on the owner not less than five days before the hearing date specified in the order in the same manner as a summons and complaint. In the event the owner fails to appear or fails to show by competent evidence that the horticultural pest or disease has been controlled, then the court shall authorize the county horticultural pest and disease board to remove the plants at the owner's expense, to be collected as provided by this chapter. If the procedure provided herein is followed, no action for damages for removal of the plants shall lie against the county horticultural pest and disease board, its officers or agents, or the county in which it is situated. [1991 c 257 § 1; 1982 c 153 § 4; 1969 c 113 § 8.]

**Severability—Effective date—1982 c 153:** See notes following RCW 17.24.200.

**Chapter 15.13**

**HORTICULTURAL PLANTS AND FACILITIES—INSPECTION AND LICENSING**

Sections

15.13.250	Definitions.
15.13.260	Enforcement—Rules and regulations—Scope.
15.13.270	Licensing exemptions—Permits for clubs, conservation districts, nonprofit associations, educational organizations—Fee.
15.13.310	Assessment on gross sale price of wholesale market value of fruit trees, ornamental trees, and rootstock—Method for determining—Due date—Gross sale period—Audit.
15.13.320	Advisory committee—Appointment—Terms—Filling vacancies.
15.13.335	Advisory committee—Members—Terms.
15.13.350	Denial, suspension, revocation of license—Grounds.
15.13.370	Request for inspector's services during shipping season—Costs—Certificate of inspection.
15.13.380	Inspection and certification fees—Director to prescribe—When due and payable—Arrears.

15.13.410	Shipments into state to be marked or tagged—Contents.
15.13.420	Unlawful acts enumerated—Certain persons exempted from penalty for false advertising.
15.13.440	Order of condemnation, when—Finality.
15.13.470	Disposition of moneys collected under chapter—Expenditure.
15.13.490	Compliance with chapter—Violation—Penalties.

**15.13.250 Definitions.** For the purpose of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington.
- (2) "Director" means the director of the department or the director's duly appointed representative.
- (3) "Person" means a natural person, individual, firm, partnership, corporation, company, society and association, and every officer, agent or employee thereof.
- (4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, and viticultural plant, for planting, propagation or ornamentation growing or otherwise. The term does not apply to cut plant material or to olericultural plants.
- (5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants are grown, stored, handled or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport such horticultural plants.
- (6) "Plant pests" means, but is not limited to any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants, weeds, or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(7) "Inspection and/or certification" means, but is not limited to, the inspection of any horticultural plants at any time prior to, during, or subsequent to harvest, or sale, by the director, and the issuance by the director of a written certificate stating the grades, classifications, and if such horticultural plants are free of plant pests and in compliance with all the provisions of this chapter and rules adopted hereunder.

(8) "Nursery dealer" means any person who sells, holds for sale, or offers for sale, or plants, grows, receives, or handles horticultural plants, including turf for sale or for planting, including lawns, for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1990 c 261 § 1; 1985 c 36 § 1; 1982 c 182 § 19; 1971 ex.s. c 33 § 1.]

**Severability—1982 c 182:** See RCW 19.02.901.

**15.13.260 Enforcement—Rules and regulations—Scope.** The director shall enforce the provisions of this chapter and may adopt any rule necessary to carry out its purpose and provisions including but not limited to the following:

(1) The director may adopt rules establishing grades and/or classifications for any horticultural plant and standards for such grades and/or classifications.

(2) The director may adopt rules for the inspection and/or certification of any horticultural plant as to variety, quality, size and freedom from plant pests.

(3) The director shall adopt rules establishing fees for inspection of horticultural plants and methods of collection thereof.

(4) The director shall when adopting rules or regulations under the provisions of this chapter, hold a public hearing and satisfy all the requirements of chapter 34.05 RCW (administrative procedure act) as enacted or hereafter amended, concerning the adoption of rules and regulations. [1990 c 261 § 2; 1985 c 36 § 2; 1971 ex.s. c 33 § 2.]

**15.13.270 Licensing exemptions—Permits for clubs, conservation districts, nonprofit associations, educational organizations—Fee.** The provisions of this chapter relating to licensing do not apply to: (1) Persons making casual or isolated sales that do not exceed one hundred dollars annually; (2) any garden club, conservation district, or charitable nonprofit association conducting not more than three sales per year for not more than four consecutive days each of horticultural plants as defined in RCW 15.13.250 and which are grown by or donated to its members; (3) educational organizations associated with private or public secondary schools. However, such a club, conservation district, association, or organization shall apply to the director for a permit to conduct such sales. The director shall adopt rules establishing a fee for the permit.

All horticultural plants sold under such a permit issued by the director shall be subject to all the other provisions of this chapter except licensing as set forth herein. [1990 c 261 § 3; 1985 c 36 § 3; 1983 1st ex.s. c 73 § 2; 1971 ex.s. c 33 § 3.]

**15.13.310 Assessment on gross sale price of wholesale market value of fruit trees, ornamental trees, and rootstock—Method for determining—Due date—Gross sale period—Audit.** (1) There is hereby levied an annual assessment on the gross sale price of the wholesale market value for all fruit trees, fruit tree related ornamental trees, and fruit tree rootstock produced in Washington, and sold within the state or shipped from the state of Washington by any licensed nursery dealer during any license period, as set forth in this chapter. Fruit tree related ornamental tree nursery stock shall be limited to the genera, Chaenomeles, Cydonia, Crataegus, Malus, Prunus, Pyrus, and Sorbus. This annual assessment is based on the first sale price of such nursery stock except for rootstocks which are replanted and/or grafted and planted for growing-on in the nursery. The director shall by rule subsequent to a hearing determine

the rate of an assessment conforming with the costs necessary to carry out the fruit tree certification and nursery improvement programs specified in RCW 15.13.470.

Such wholesale market price may be determined by the wholesale catalogue price of the seller of such fruit trees, fruit tree related ornamental trees, or fruit tree rootstock or of the shipper moving such fruit trees, fruit tree related ornamentals, or fruit tree rootstock out of the state. If the seller or shipper do not have a catalogue, then such wholesale market price may be based on the actual selling price or an average wholesale market price. The director in determining such average wholesale market price may use catalogues of various businesses licensed under the provisions of this chapter or any other reasonable method.

(2) Such assessment shall be due and payable on the first day of July of each year.

(3) The gross sale period shall be from July 1 to June 30 of the previous license period.

(4) The department may audit the records of licensees during normal business hours to determine that the appropriate assessment has been paid. [1990 c 261 § 4; 1987 c 35 § 2; 1983 1st ex.s. c 73 § 4; 1971 ex.s. c 33 § 7.]

**15.13.320 Advisory committee—Appointment—Terms—Filling vacancies.** An advisory committee is hereby established to advise the director in the administration of the fruit tree and fruit tree related ornamental tree certification and nursery improvement program.

(1) The committee shall consist of five fruit tree nursery dealers and the director or the director's designated appointee.

(2) The director shall appoint this committee from names submitted by the Washington state nurserymen's association.

(3) The terms of the members of the committee shall be staggered and the members shall serve a term of three years and until their successor has been appointed and qualified.

In the event a committee member resigns, is disqualified, or vacates a position on the committee for any other reason the vacancy shall be filled by the director under the provisions of this section governing appointments. [1990 c 261 § 5; 1983 1st ex.s. c 73 § 5; 1971 ex.s. c 33 § 8.]

**15.13.335 Advisory committee—Members—Terms.** An advisory committee is hereby established to advise the director in the administration of this chapter.

(1) The committee shall consist of not less than four members, representing the interests of licensed nursery dealers and the nursery industry, appointed by the director in consultation with the following persons: The president of (a) the Washington state floricultural association, (b) the Washington state bulb association, and (c) the Washington state nursery and landscape association; and the director or the director's designated appointee.

(2) The terms of the members of the committee shall be staggered and the members shall serve a term of three years and until their successors have been appointed and qualified.

In the event a committee member resigns, is disqualified, or vacates a position on the committee for any other reason, the vacancy shall be filled by the director under the provisions of this section governing appointments. [1990 c 261 § 6; 1983 1st ex.s. c 73 § 6.]

**15.13.350 Denial, suspension, revocation of license—Grounds.** The director may, after determining that an applicant or licensee has violated any provisions of this chapter, and complying with the notice and hearing requirement and all other provisions of chapter 34.05 RCW concerning adjudicative proceedings, deny, suspend, or revoke any license issued or which may be issued under the provisions of this chapter. [1990 c 261 § 7; 1989 c 175 § 43; 1971 ex.s. c 33 § 11.]

Effective date—1989 c 175: See note following RCW 34.05.010.

**15.13.370 Request for inspector's services during shipping season—Costs—Certificate of inspection.** Any person licensed under the provisions of this chapter may request, upon the payment of actual costs to the department as prescribed by the director, the services of a horticultural inspector at such licensee's place of business or point of shipment during the shipping season. Subsequent to inspection such horticultural inspector shall issue to such licensee a certificate of inspection signed by the inspector covering any horticultural plants which the inspector finds not to be infected with plant pests and in compliance with the provisions of this chapter and rules adopted hereunder. [1990 c 261 § 8; 1971 ex.s. c 33 § 13.]

**15.13.380 Inspection and certification fees—Director to prescribe—When due and payable—Arrears.** The director shall prescribe, in addition to those costs provided for in RCW 15.13.370, any other necessary fees to be charged the owner or the owner's agent for the inspection and certification of any horticultural plant subject to the provisions of this chapter or rules adopted hereunder, and for the inspection and certification when such inspection and certification is performed at the request of any person financially interested in any horticultural plants which are, or are not subject to the provisions of this chapter or rules adopted hereunder, produced in or imported into this state. The inspection fees provided for in this chapter shall become due and payable upon billing by the department. A late charge of one and one-half percent per month shall be assessed on the unpaid balance against persons more than thirty days in arrears. In addition to any other penalties, the director may refuse to perform any inspection or certification service for any person in arrears unless the person makes payment in full prior to such inspection or certification service. [1990 c 261 § 9; 1971 ex.s. c 33 § 14.]

**15.13.410 Shipments into state to be marked or tagged—Contents.** Each shipment of horticultural

plants transported or shipped into the state and/or offered for retail sale within the state shall be legibly marked or tagged in a conspicuous manner, and shall include the following:

(1) The common name; botanical name; and variety or color picture.

(2) When plants, other than floricultural products are on display for retail sale, each unit of sale shall be tagged as prescribed above. On mixed lots or blocks, each plant shall be tagged as prescribed above.

(3) Any other necessary information prescribed, by rule, by the director. The director may, whenever the director finds that any horticultural plant is not properly marked, order it off sale until it is properly marked, or order that it be returned to the consignor for proper marking.

(4) If the plant is a patented plant or is produced under a grower agreement, that fact shall be noted on the label or tag. [1990 c 261 § 10; 1971 ex.s. c 33 § 17.]

**15.13.420 Unlawful acts enumerated—Certain persons exempted from penalty for false advertising.** It shall be unlawful for any person:

(1) To falsely represent that the person is the agent or representative of any nursery dealer in horticultural plants;

(2) To deceive or defraud another in the sale of horticultural plants by substituting inferior or different grades from those ordered;

(3) To bring into this state any horticultural plants infested with plant pests, or to sell, offer for sale, hold for sale, distribute, ship or deliver any horticultural plants infested with plant pests;

(4) To sell, offer for sale, hold for sale, solicit orders for or distribute horticultural plants by any method which has the capacity and tendency or effect of deceiving any purchaser or prospective purchaser as to the quantity, size, grade, kind, species, age, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect;

(5) To advertise the price of horticultural plants without denoting the size of the plant material;

(6) To make the following representations directly or indirectly, without limiting the effects of this section:

(a) That any horticultural plant has been propagated by grafting or budding methods, when such is not the fact;

(b) That any horticultural plant is healthy and will grow anywhere without the use of fertilizer, or will survive and produce without special care, when such is not a fact;

(c) That any horticultural plant blooms the year around, or will bear an extraordinary number of blooms of unusual size or quality, when such is not a fact;

(d) That any horticultural plant is a new variety, when in fact it is a standard variety to which the person who is selling or holding such horticultural plant for sale has given a new name;

(e) That any horticultural plant cannot be purchased through usual outlets, or that limited stocks are available, when such is not the fact;

(f) That any horticultural plant offered for sale will be delivered in time for the next, or any specified, seasonal planting when the seller is aware of factors which make such delivery improbable;

(g) That the appearance of any horticultural plant is normal or usual when the appearance so represented is in fact abnormal or unusual;

(h) That the root system of any horticultural plant is appreciably larger than that which actually exists, whether accomplished by means of packaging, balling or otherwise;

(i) That bulblets are bulbs;

(j) That any horticultural plant is rare or an unusual item, when such is not the fact;

(7) To sell, offer for sale or hold for sale, or plant for another person any horticultural plants on the basis of grade, unless such horticultural plants have been graded and/or classified and meet the standards prescribed by the director for such grades and/or classifications;

(8) To substitute any other horticultural plant for a horticultural plant covered by an inspection certificate;

(9) To sell, offer for sale, or hold for sale, or plant for another person, any horticultural plant which is dead, in a dying condition, seriously broken, frozen, or damaged, or abnormally potbound;

(10) To sell, offer for sale, or hold for sale, or plant for another person as other than collected horticultural plant any such collected horticultural plant within one year after its collection in its natural habitat unless it is conspicuously marked or labeled as a collected horticultural plant.

No publisher, radio and television broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the grower, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 15.13.490 by reason of dissemination of any false advertisement, unless the person has refused on the request of the director to furnish the name and address of the grower, packer, distributor, seller, or advertising agency in the state of Washington, who caused dissemination of such false advertisement. [1990 c 261 § 11; 1971 ex.s. c 33 § 18.]

**15.13.440 Order of condemnation, when—Finality.** The director shall condemn any or all horticultural plants in a shipment or when any such horticultural plants are held for sale, or offered for sale and they are found to be dead, in a dying condition, seriously broken, diseased, infested with harmful insects, damaged or frozen or abnormally potbound and shall order such horticultural plants to be destroyed or returned at shipper's option. The director's order shall be final fifteen days after the date of issuance, unless within such time the superior court of the county where the condemnation occurred shall issue an order requiring the director to show cause why the order should not be stayed. [1990 c 261 § 12; 1971 ex.s. c 33 § 20.]

**15.13.470 Disposition of moneys collected under chapter—Expenditure.** All moneys collected under this chapter shall be paid to the director, deposited in an account within the agricultural local fund, and used solely for carrying out this chapter and rules adopted under this chapter. No appropriation is required for the disbursement of moneys from the account by the director. Any residual balance of funds remaining in the nursery inspection fund on July 26, 1987, shall be transferred to that account within the agricultural local fund: **PROVIDED**, That all fees collected for fruit tree, fruit tree related ornamental tree, and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree and fruit tree related ornamental tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW. For the purpose of testing and improvement of fruit trees, fruit tree related ornamental trees, fruit tree rootstock, or other plant material used for the propagation of such stock, the director may, with advice from the advisory committee under RCW 15.13.320, expend up to fifty percent of the money collected from assessments during each fiscal year ending June 30. At no time may such contribution allow the balance of the northwest nursery fund to fall below the combined program cost of the two previous fiscal years. The amount of this minimum balance shall be determined by the director on June 30 of each year. [1990 c 261 § 13; 1987 c 35 § 3; 1985 c 36 § 5; 1975 1st ex.s. c 257 § 1; 1971 ex.s. c 33 § 25.]

**Construction—Effective date—1975 1st ex.s. c 257:** See RCW 15.53.9053 and note.

**15.13.490 Compliance with chapter—Violation—Penalties.** A person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for each violation. Each violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty provided in this section. [1990 c 261 § 14; 1985 c 36 § 6; 1971 ex.s. c 33 § 27.]

## Chapter 15.17

### STANDARDS OF GRADES AND PACKS

#### Sections

15.17.100 Apples—Grades and classifications—Color requirements—Hearings—Violations.

**15.17.100 Apples—Grades and classifications—Color requirements—Hearings—Violations.** The director shall by rule establish grades and/or classifications and standards and sizes for such grades and/or classifications. In establishing such standards for grades and/or classifications, the director shall take into account the factors of maturity, soundness, color, shape,

and freedom from mechanical and plant pest injury. When establishing standards of color requirements for red varieties and partial red varieties of apples, the director shall establish color standards for such varieties which are not less than the following:

1. Arkansas Black	Fifteen percent
2. Spitzenburg (Esopus)	Fifteen percent
3. Winesap	Twenty percent
4. King David	Fifteen percent
5. Delicious	Twenty percent
6. Stayman Winesap	Ten percent
7. Vanderpool	Ten percent
8. Black Twig	Ten percent
9. Jonathan	Ten percent
10. McIntosh	Ten percent
11. Rome	Ten percent
12. Red Sport varieties	Twenty percent

Whenever red sport varieties are marked as such, they shall meet the color requirements of red sport varieties.

The director may upon his or her own motion or upon the recommendation of an organization such as the Washington state horticultural association's grade and pack committee hold hearings in each major apple producing area concerning changes in apple grades and/or standards for such apple grades as proposed by the director or as recommended by such organization.

The hearings on such recommendations for changes in grades for apples and/or standards for such grades shall be subject to chapter 34.05 RCW concerning the adoption of rules.

The director in making a final determination on his or her recommendation or those proposed by such organization shall give due consideration to testimony given by producers or producer organizations at such hearing.

It shall be unlawful for any person to sell, offer for sale, hold for sale, ship, or transport any apples unless they comply with the provisions of this chapter and the rules adopted hereunder. [1990 c 19 § 1; 1963 c 122 § 10.]

### Chapter 15.26

#### TREE FRUIT RESEARCH ACT

##### Sections

15.26.155 Additional assessment.

**15.26.155 Additional assessment.** The producers of tree fruit subject to the provisions of this chapter may at any time, by referendum conducted by the department and approved by a majority of the producers voting, establish an additional assessment for programs including but not limited to sanitation programs and the reregistration of plant protection products for use on minor crops. The members of the commission may, subject to approval by two-thirds of the voting members of the commission, suspend all or part of the assessments on tree fruit under this section. [1991 c 257 § 2; 1983 c 281 § 3.]

### Chapter 15.32

#### DAIRIES AND DAIRY PRODUCTS

##### Sections

15.32.100 Milk vendor's license.  
15.32.110 Plant licenses—Generally.  
15.32.584 Dairy technician's license—Generally.

**15.32.100 Milk vendor's license.** Every person who sells, offers or exposes for sale, barter, or exchanges any milk or milk product as defined by rule under chapter 15.36 RCW must have a milk vendor's license to do so. The license shall not include retail stores or restaurants that purchase milk prepackaged or bottled elsewhere for sale at retail or establishments that sell milk only for consumption in such establishment. Such license, issued by the director on application and payment of a fee of ten dollars, shall contain the license number, and name, residence and place of business, if any, of the licensee. It shall be nontransferable, shall expire annually on a date set by rule by the director, and may be revoked by the director, upon reasonable notice to the licensee, for any violation of or failure to comply with any provision of this chapter or any rule or regulation, or order of the department, or any officer or inspector thereof. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 1; 1989 c 354 § 4; 1983 c 3 § 20; 1963 c 58 § 3; 1961 c 11 § 15.32.100. Prior: (i) 1929 c 213 § 5; 1927 c 192 § 12; 1919 c 192 § 31; 1899 c 43 § 25; RRS § 6193. (ii) 1923 c 27 § 9; 1919 c 192 § 32; 1899 c 43 § 25; RRS § 6194.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

**15.32.110 Plant licenses—Generally.** Every creamery, milk plant, shipping station, milk-condensing plant, factory of milk products, and other person who receives or purchases milk or cream in bulk and by weight or measure or upon the basis of milk fat contained therein shall obtain annually a license to do so. The license shall be issued by the director upon payment of ten dollars and his being satisfied that the building or premises where the milk or cream is to be received is maintained in a sanitary condition in accordance with the provisions of this chapter; except, such license shall not be required of persons purchasing milk or cream for their own consumption nor of hotels, restaurants, boarding houses, eating houses, bakeries, or candy manufacturing plants.

The license shall expire annually on a date set by rule by the director, unless sooner revoked by the director, upon reasonable notice to the licensee, for a failure to comply with the provisions of this chapter, and the rules and regulations issued hereunder. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

A licensee under this section shall not be required to obtain a milk vendor's license. [1991 c 109 § 2; 1961 c 11 § 15.32.110. Prior: (i) 1927 c 192 § 11; 1923 c 27 § 8; 1919 c 192 § 29; RRS § 6192. (ii) 1919 c 192 § 33; RRS § 6195.]

**15.32.584 Dairy technician's license—Generally.** The initial application for a dairy technician's license shall be accompanied by the payment of a license fee of ten dollars. Where such license is renewed and it is not necessary that an examination be given the fee for renewal of the license shall be five dollars. All dairy technicians' licenses shall expire biennially on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. The director is authorized to deny, suspend, or revoke any dairy technician's license subject to a hearing if the licensee has failed to comply with the provisions of this chapter, or has exhibited in the discharge of his functions any gross carelessness or lack of qualification, or has failed to comply with the rules and regulations adopted under authority of this chapter. All hearings for the suspension, denial, or revocation of such license shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings. [1991 c 109 § 3; 1989 c 175 § 46; 1963 c 58 § 8; 1961 c 11 § 15.32.584. Prior: 1943 c 90 § 6; 1927 c 192 § 10; 1919 c 192 § 28; Rem. Supp. 1943 § 6191.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

### Chapter 15.35

#### WASHINGTON STATE MILK POOLING ACT

##### Sections

15.35.020	Repealed.
15.35.030	Declaration of public interest.
15.35.040	Repealed.
15.35.050	Repealed.
15.35.060	Purposes.
15.35.070	Powers conferred to be liberally construed—Monopoly—Price setting.
15.35.080	Definitions.
15.35.090	Milk control between states.
15.35.100	Director's authority—Subpoena power—Rules.
15.35.105	Minimum milk price.
15.35.110	Referendum on establishing or discontinuing market area pooling arrangement.
15.35.120	Qualifications for producers to sign petitions or vote in referendums.
15.35.140	Director to establish systems within market areas.
15.35.150	Determination of producer's quota.
15.35.170	Quotas—Transfer of—Limitations.
15.35.180	Records of milk dealers and cooperatives, inspection and audit of.
15.35.230	Milk dealer license—Fees—Additional assessment for late renewal.
15.35.250	Assessments on producers—Amount—Collection—Penalty for noncollection—Court action.
15.35.310	Certain producer-dealers exempt.

**15.35.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**15.35.030 Declaration of public interest.** It is hereby declared that:

- (1) Milk is a necessary article of food for human consumption;
- (2) The production, distribution, and maintenance of an adequate supply of healthful milk of proper chemical

and physical content, free from contamination, is vital to the public health and welfare;

(3) It is the policy of the state to promote, foster, and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to eliminate economic waste, destructive trade practices, and improper accounting for milk purchased from producers;

(4) Economic factors concerning the production, marketing, and sale of milk in the state may not be accurately reflected in federal programs;

(5) Conditions within the milk industry of this state are such that it may be necessary to establish marketing areas wherein pricing and pooling arrangements between producers are necessary, and for that purpose the director shall have the administrative authority, with such additional duties as are herein prescribed, after investigations and public hearings, to prescribe such marketing areas and modify the same when advisable or necessary. [1991 c 239 § 1; 1971 ex.s. c 230 § 3.]

**15.35.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**15.35.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**15.35.060 Purposes.** The purposes of this chapter are to:

(1) Authorize and enable the director to prescribe marketing areas and to establish pricing and pooling arrangements which are necessary due to varying factors of costs of production, health regulations, transportation, and other factors in said marketing areas of this state;

(2) Authorize and enable the director to formulate marketing plans subject to the provisions of this chapter, in accordance with chapter 34.05 RCW, which provide for pricing and pooling arrangements and declare such plans in effect for any marketing area;

(3) Provide funds for administration and enforcement of this chapter by assessments to be paid by producers. [1991 c 239 § 2; 1971 ex.s. c 230 § 6.]

**15.35.070 Powers conferred to be liberally construed—Monopoly—Price setting.** It is the intent of the legislature that the powers conferred in this chapter shall be liberally construed. Nothing in this chapter shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of milk, nor shall this chapter give the director authority to establish retail prices for milk or milk products. [1991 c 239 § 3; 1971 ex.s. c 230 § 7.]

**15.35.080 Definitions.** For the purposes of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington;
- (2) "Director" means the director of the department or the director's duly appointed representative;

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent, or employee thereof. This term shall import either the singular or plural as the case may be;

(4) "Market" or "marketing area" means any geographical area within the state comprising one or more counties or parts thereof, or one or more cities or towns or parts thereof where marketing conditions are substantially similar and which may be designated by the director as one marketing area;

(5) "Milk" means all fluid milk as defined in chapters 15.32 and 15.36 RCW as enacted or hereafter amended and rules adopted thereunder;

(6) "Milk products" includes any product manufactured from milk or any derivative or product of milk;

(7) "Milk dealer" means any person engaged in the handling of milk in his or her capacity as the operator of a milk plant within the state or of any other plant from which milk or milk products that are produced at least in part from milk from producers are disposed of to any place or establishment within a marketing area;

(8) "Producer" means a person producing milk within this state for sale under a grade A milk permit issued by the department under the provisions of chapter 15.36 RCW as enacted or hereafter amended;

(9) "Classification" means the classification of milk into classes according to its utilization by the department;

(10) "Producer-dealer" means a producer who engages in the production of milk and also operates a plant from which an average of more than three hundred pounds daily of milk products, except filled milk, is sold within the marketing area and who has been so designated by the director. A state institution which processes and distributes milk of its own production shall be considered a producer-dealer for purposes of this chapter, but the director may by rule exempt such state institutions from any of the requirements otherwise applicable to producer-dealers. [1991 c 239 § 4; 1971 ex.s. c 230 § 8.]

**15.35.090 Milk control between states.** (1) The director shall in carrying out the provisions of this chapter and any marketing plan thereunder confer with the legally constituted authorities of other states of the United States, and the United States department of agriculture, for the purpose of seeking uniformity of milk control with respect to milk coming in to the state and going out of the state in interstate commerce with a view to accomplishing the purposes of this chapter, and may enter into a compact or compacts which will insure a uniform system of milk control between this state and other states.

(2) In order to facilitate carrying out the provisions and purposes of this chapter, the department may hold joint hearings with authorized officers or agencies of other states who have duties and powers similar to those of the department or with any authorized person designated by the United States department of agriculture,

and may enter into joint agreements with such authorized state or federal agencies for exchange of information with regard to prices paid to producers for milk moving from one state to the other or any purpose to carry out and enforce this chapter. [1991 c 239 § 5; 1971 ex.s. c 230 § 9.]

**15.35.100 Director's authority—Subpoena power—Rules.** Subject to the provisions of this chapter and the specific provisions of any marketing plan established thereunder, the director is hereby vested with the authority:

(1) To investigate all matters pertaining to the production, processing, storage, transportation, and distribution of milk and milk products in the state, and shall have the authority to:

(a) Establish classifications of processed milk and milk products, and a minimum price or a formula to determine a minimum price to be paid by milk dealers for milk used to produce each such class of products;

(b) Require that payment be made by dealers to producers of fluid milk or their cooperative associations and prescribe the method and time of such payments by dealers to producers or their cooperative associations in accordance with a marketing plan for milk;

(c) Determine what constitutes a natural milk market area;

(d) Determine by using uniform rules, what portion of the milk produced by each producer subject to the provisions of a marketing plan shall be marketable in fluid form and what proportion so produced shall be considered as surplus; such determination shall also apply to milk dealers who purchase or receive milk, for sale or distribution in such marketing area, from plants whose producers are not subject to such pooling arrangements;

(e) Provide for the pooling of minimum class values from the sales of each class of milk to milk dealers, and the equalization of returns to producers;

(f) Provide and establish market pools for a designated market area with such rules and regulations as the director may adopt;

(g) Employ an executive officer, who shall be known as the milk pooling administrator;

(h) Employ such persons as may be necessary and incur all expenses necessary to carry out the purposes of this chapter;

(i) Determine by rule, what portion of any increase in the demand for fluid milk subject to a pooling arrangement and marketing plan providing for quotas shall be assigned new producers or existing producers.

(2) To issue subpoenas to compel the attendance of witnesses and/or the production of books, documents, and records anywhere in the state in any hearing affecting the authority of privileges granted by a license issued under the provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended.

(3) To make, adopt, and enforce all rules necessary to carry out the purposes of this chapter subject to the

provisions of chapter 34.05 RCW concerning the adoption of rules, as enacted or hereafter amended: PROVIDED, That nothing contained in this chapter shall be construed to abrogate or affect the status, force, or operation of any provision of the public health laws enacted by the state or any municipal corporation or the public service laws of this state. [1991 c 239 § 6; 1971 ex.s. c 230 § 10.]

**15.35.105 Minimum milk price.** In establishing a minimum milk price or a formula to determine a minimum milk price, as provided under RCW 15.35.060 and 15.35.100, the director shall, in addition to other appropriate criteria, consider the:

- (1) Cost of producing fluid milk for human consumption;
- (2) Transportation costs;
- (3) Milk prices in states or regions outside of the state that influence prices within the marketing areas;
- (4) Demand for fluid milk for human consumption; and
- (5) Alternative enterprises available to producers. [1991 c 239 § 7.]

**15.35.110 Referendum on establishing or discontinuing market area pooling arrangement.** (1) The director, either upon his or her own motion or upon petition by ten percent of the producers in any proposed area, shall conduct a hearing to determine whether to establish or discontinue a market area pooling arrangement. Upon determination by the director that in order to satisfy the purposes of this chapter a pooling arrangement should be established, a referendum of affected individual producers and milk dealers shall be conducted by the department.

(2) In order for the director to establish a market area and pooling plan:

- (a) Sixty-six and two-thirds percent of the producers that vote must be in favor of establishing a market area and pooling plan; and
- (b) Sixty-six and two-thirds percent of the milk dealers that vote must be in favor of establishing a market area and pooling plan.

The director, within sixty days from the date the results of the referendum are filed with the secretary of state, shall establish a market pool in the market area, as provided for in this chapter.

(3) If fifty-one percent of the producers voting representing fifty-one percent of the milk produced in the market area vote to terminate a pooling plan, the director, within one hundred twenty days, shall terminate all the provisions of said market area and pooling arrangement.

(4) A referendum of affected producers and milk dealers shall be conducted only when a market area pooling arrangement is to be established or terminated. [1991 c 239 § 8; 1971 ex.s. c 230 § 11.]

**15.35.120 Qualifications for producers to sign petitions or vote in referendums.** (1) The producers qualified

to sign a petition, or to vote in any referendum concerning a market pool, shall be all those producers shipping milk to the market area on a regular supply basis and who would or do receive or pay equalization in an existing market pool in a market area, or in a market pool if established in such market area.

(2) The milk dealers qualified to vote in any referendum establishing a market pool shall be all those milk dealers who operate a plant which is located within the state and who would receive milk priced under a market pool if established in such market area.

(3) The director is authorized during business hours to review the books and records of milk dealers to obtain a list of the producers qualified to sign petitions or to vote in referendums and to verify that such milk dealers are qualified to vote in a referendum. [1991 c 239 § 9; 1971 ex.s. c 230 § 12.]

**15.35.140 Director to establish systems within market areas.** (1) The director shall establish a system of classifying, pricing, and pooling of all milk used in each market area established under RCW 15.35.110.

(2) Thereafter the director may establish a system in each market area for the equalization of returns for all quota milk and all surplus over quota milk whereby all producers selling milk to milk dealers or delivering milk in such market area, or their cooperative associations, will receive the same prices for all quota milk and all surplus over quota milk, except that any premium paid to a producer by a dealer above established prices shall not be considered in determining average pool prices. Such prices may reflect adjustments based on the value of component parts of each producer's milk. [1991 c 239 § 10; 1971 ex.s. c 230 § 14.]

**15.35.150 Determination of producer's quota.** (1) Under a market pool and as used in this section, "quota" means a producer's portion of the total sales of milk in fluid form in a market area plus a reserve determined by the director.

(2) The director may in each market area subject to a market plan establish each producer's initial quota in the market area. Such initial quota shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.05 RCW. In making this determination, consideration shall be given to a history of the producer's production record.

In any system of establishing quotas, provision shall be made for new producers to qualify for allocation of quota in a reasonable proportion and for old and new producers to participate in any new increase in fluid milk sales in a reasonable proportion. The director may establish a method to proportionately decrease quota allocations in the event decreases in fluid milk consumption occur.

All subsequent changes or new quota issued shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.05 RCW. [1991 c 239 § 11; 1971 ex.s. c 230 § 15.]

**15.35.170 Quotas—Transfer of—Limitations.** Quotas provided for in this chapter may not in any way be transferred without the consent of the director. Regulations regarding transfer of quotas shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.05 RCW. Any contract for the transfer of quotas, unless the transfer has previously been approved by the director, shall be null and void. The director shall make rules and regulations to preclude any person from using a corporation as a device to evade the provisions of this section. The quotas assigned to any producer shall become null and void as of any time the producer does not own the means of production to which the quotas pertain. Quotas shall in no event be considered as property and may be taken or abolished by the state without compensation. [1991 c 239 § 12; 1971 ex.s. c 230 § 17.]

**15.35.180 Records of milk dealers and cooperatives, inspection and audit of.** The director shall examine and audit not less than one time each year or at any other such time the director considers necessary, the books and records, and may photostat such books, records, and accounts of milk dealers and cooperatives licensed or believed subject to license under this chapter for the purpose of determining:

(1) How payments to producers for the milk handled are computed and whether the amount of such payments are in accordance with the applicable marketing plan;

(2) If any provisions of this chapter affecting such payments directly or indirectly have been or are being violated.

No person shall in any way hinder or delay the director in conducting such examination.

The director may accept and use for the purposes of this section any audit made for or by a federal milk market order administrator which provides the information necessary for such purposes. [1991 c 239 § 13; 1971 ex.s. c 230 § 18.]

**15.35.230 Milk dealer license—Fees—Additional assessment for late renewal.** (1) Application for each milk dealer's license shall be accompanied by an annual license fee to be established by the director by rule.

(2) If an application for the renewal of a milk dealer's license is not filed on or before the first day of an annual licensing period a late fee of up to one-half of the license fee shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional assessment shall not apply if the applicant furnishes an affidavit that the applicant has not acted as a milk dealer subsequent to the expiration of his or her prior license. [1991 c 239 § 14; 1971 ex.s. c 230 § 23.]

**15.35.250 Assessments on producers—Amount—Collection—Penalty for noncollection—Court action.** There is hereby levied upon all milk sold or received in any marketing area subject to a marketing plan established under the provisions of this

chapter an assessment, not to exceed five cents per one hundred pounds of all such milk, to be paid by the producer of such milk. Such assessment shall be collected by the first milk dealer who receives or handles such milk from any producer or his agent subject to such marketing plan and shall be paid to the director for deposit into the agricultural local fund.

The amount to be assessed and paid to the director under any marketing plan shall be determined by the director within the limits prescribed by this section and shall be determined according to the necessities required to carry out the purpose and provisions of this chapter under any such marketing plan.

Upon the failure of any dealer to withhold out of amounts due to or to become due to a producer at the time a dealer is notified by the director of the amounts to be withheld and upon failure of such dealer to pay such amounts, the director subject to the provisions of RCW 15.35.260, may revoke the license of the dealer required by RCW 15.35.230. The director may commence an action against the dealer in a court of competent jurisdiction in the county in which the dealer resides or has his principal place of business to collect such amounts. If it is determined upon such action that the dealer has wrongfully refused to pay the amounts the dealer shall be required to pay, in addition to such amounts, all the costs and disbursements of the action, to the director as determined by the court. If the director's contention in such action is not sustained, the director shall pay to the dealer all costs and disbursements of the action as determined by the court. [1991 c 239 § 15; 1971 ex.s. c 230 § 25.]

**15.35.310 Certain producer-dealers exempt.** (1) The provisions of this chapter shall not apply to persons designated as producer-dealers, except that:

(a) The director may require pursuant to RCW 15.35.100 any information deemed necessary to verify a producer-dealer's status as a producer-dealer; and

(b) A producer-dealer shall comply with all requirements of this chapter applicable to milk dealers, except those which the director may deem unnecessary.

(2) The director shall upon request designate producer-dealers and adopt rules governing eligibility for designation of a producer-dealer and cancellation of such designation. To receive such designation, a producer-dealer shall, at a minimum:

(a) In its capacity as a handler, have and exercise complete and exclusive control over the operation and management of a plant at which it handles and processes milk received from its own milk production resources and facilities as designated in subsection (4)(a) of this section, the operation and management of which are under the complete and exclusive control of the producer-dealer in its capacity as a dairy farmer;

(b) Neither receive at its designated milk production resources and facilities nor receive, handle, process, or distribute at or through any of its milk handling, processing, or distributing resources and facilities, as designated in subsection (4)(b) of this section, milk products for reconstitution into fluid milk products, or fluid milk

products derived from any source other than (i) its designated milk production resources and facilities, (ii) other milk dealers within the limitation specified in subsection (2)(e) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products;

(c) Neither be directly nor indirectly associated with the business control or management of, nor have a financial interest in, another dealer's operation; nor shall any other dealer be so associated with the producer-dealer's operation;

(d) Not allow milk from the designated milk production resources and facilities of the producer-dealer to be delivered in the name of another person as producer milk to another handler; and

(e) Not handle fluid milk products derived from sources other than the designated milk production facilities and resources, except for fluid milk product purchased from pool plants which do not exceed in the aggregate a daily average during the month of one hundred pounds.

(3) Designation of any person as a producer-dealer following a cancellation of its prior designation shall be preceded by performance in accordance with subsection (2) of this section for a period of one month.

(4) Designation of a person as a producer-dealer shall include the determination and designation of the milk production, handling, processing, and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(a) As milk production resources and facilities: All resources and facilities, milking herd, buildings housing such herd, and the land on which such buildings are located, used for the production of milk:

(i) Which are directly, indirectly, or partially owned, operated, or controlled by the producer-dealer;

(ii) In which the producer-dealer in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly, or partially owned, operated, or controlled by any partner or stockholder of the producer-dealer. However, for purposes of this item (4)(a)(iii) any such milk production resources and facilities which the producer-dealer proves to the satisfaction of the director do not constitute an actual or potential source of milk supply for the producer-dealer's operation as such shall not be considered a part of the producer-dealer's milk production resources and facilities; and

(b) As milk handling, processing, and distributing resources and facilities: All resources and facilities including store outlets used for handling, processing, and distributing any fluid milk product:

(i) Which are directly, indirectly, or partially owned, operated, or controlled by the producer-dealer; or

(ii) In which the producer-dealer in any way has an interest, including any contractual arrangement, or with respect to which the producer-dealer directly or indirectly exercises any degree of management or control.

(5) Designation as a producer-dealer shall be canceled automatically upon determination by the director that any of the requirements of subsection (2) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the

month in which the requirements were not met, or the conditions for cancellation occurred. [1991 c 239 § 16; 1971 ex.s. c 230 § 31.]

### Chapter 15.36

#### FLUID MILK

##### Sections

15.36.425 Grade A pasteurized milk—Personnel, health.

**15.36.425 Grade A pasteurized milk—Personnel, health.** The health authority or a physician authorized by him or her shall examine and take careful morbidity history of every person connected with a pasteurization plant, or about to be employed, whose work brings him or her in contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment. If such examination or history suggests that such person may be a carrier of or infected with the organisms of typhoid or paratyphoid fever or any other communicable diseases likely to be transmitted through milk, he or she shall secure appropriate specimens of body discharges and cause them to be examined in a laboratory approved by him or her or by the state department of health for such examinations, and if the results justify such persons shall be barred from such employment.

Such persons shall furnish such information, submit to such physical examinations, and submit such laboratory specimens as the health official may require for the purpose of determining freedom from infection. [1991 c 3 § 1; 1989 c 354 § 20; 1979 c 141 § 22; 1961 c 11 § 15.36-.425. Prior: 1955 c 238 § 65; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266-36, part.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

### Chapter 15.52

#### WASHINGTON ANIMAL REMEDY ACT

##### Sections

15.52.010 through 15.52.340 Repealed.  
15.52.900 Repealed.

**15.52.010 through 15.52.340 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**15.52.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 15.58

#### WASHINGTON PESTICIDE CONTROL ACT

##### Sections

15.58.030 Definitions.  
15.58.040 Director's authority—Rules.  
15.58.150 Unlawful practices.  
15.58.200 Pesticide dealer manager—License qualifications.

- 15.58.210 Pest control consultant licenses.  
 15.58.220 Public pest control consultant license.

**15.58.030 Definitions.** As used in this chapter the words and phrases defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(5) "Department" means the Washington state department of agriculture.

(6) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(7) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(8) "Director" means the director of the department or a duly authorized representative.

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(10) "EPA" means the United States environmental protection agency.

(11) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(12) "FIFRA" means the federal insecticide, fungicide, and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(13) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living persons or other animals.

(14) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(15) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(16) "Inert ingredient" means an ingredient which is not an active ingredient.

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together

with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need by [be] named.

(18) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(19) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(20) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide, device, or immediate container, and the outside container or wrapper of the retail package.

(21) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon the pesticide, device, or any of its containers or wrappers;

(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department, United States departments of agriculture; interior; education; health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(22) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(23) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed using a master application and a master license expiration date common to each renewable license endorsement.

(24) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(25) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting

soil, water, plants or plant parts, may also be called nemas or eelworms.

(26) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(28) "Pest control consultant" means any individual who acts as a structural pest control inspector, who sells or offers for sale at other than a licensed pesticide dealer outlet or location, or who offers or supplies technical advice, supervision, or aid, or makes recommendations to the user of:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(29) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(30) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act.

(31) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(32) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(33) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(34) "Registrant" means the person registering any pesticide under the provisions of this chapter.

(35) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(36) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(37) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any other pesticide as an aid to the application or to the effect of the pesticide, and which is in a package or container separate from that of the pesticide with which it is to be used.

(38) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(39) "Structural pest control inspector" means any individual who commercially performs the service of inspecting a building for the presence of pests destructive to its structural components.

(40) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(41) "Weed" means any plant which grows where not wanted. [1991 c 264 § 1; 1989 c 380 § 1; 1982 c 182 § 26; 1979 c 146 § 1; 1971 ex.s. c 190 § 3.]

**Severability—1982 c 182: See RCW 19.02.901.**

**15.58.040 Director's authority—Rules.** (1) The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter. All the authority and requirements provided for in chapter 34.05 RCW (Administrative Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the adoption of rules including those requiring due notice and a hearing for the adoption of permanent rules.

(2) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 162.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require rules restricting or prohibiting their distribution or use. The director may include in the rule the time and conditions of distribution or use of such restricted use pesticides and may, if it is found necessary to carry out the purpose and provisions of this chapter, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter;

(j) Regulating the labeling of devices; and

(k) The establishment of criteria governing the conduct of a structural pest control inspection.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States environmental protection agency or any other federal agency. [1991 c 264 § 2; 1989 c 380 § 2; 1971 ex.s. c 190 § 4.]

**15.58.150 Unlawful practices.** (1) It is unlawful for any person to distribute within the state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(a) Any pesticide which has not been registered pursuant to the provisions of this chapter;

(b) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: PROVIDED, That at the discretion of the director, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product;

(c) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this chapter and the rules adopted under this chapter;

(d) Any pesticide including arsenicals, fluorides, fluosilicates, and/or any other white powdered pesticides unless they have been distinctly denatured as to color, taste, odor, or form if so required by rule;

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded;

(f) Any pesticide in containers, violating rules adopted pursuant to RCW 15.58.040(2)(f) or pesticides found in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) To sell or deliver any pesticide to any person who is required by law or rules promulgated under such law to be certified, licensed, or have a permit to use or purchase the pesticide unless such person or the person's agent, to whom sale or delivery is made, has a valid certification, license, or permit to use or purchase the kind and quantity of such pesticide sold or delivered: PROVIDED, That, subject to conditions established by the director, such permit may be obtained immediately prior to sale or delivery from any person designated by the director;

(b) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this chapter or rules adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter or the rules adopted thereunder;

(c) For any person to use or cause to be used any pesticide contrary to label directions or to regulations of the director if those regulations differ from or further restrict the label directions: PROVIDED, The compliance to the term "contrary to label directions" is enforced by the director consistent with the intent of this chapter;

(d) For any person to use for his or her own advantage or to reveal, other than to the director or proper officials or employees of the state, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of RCW 15.58.060;

(e) For any person to make false, misleading, or erroneous statements or reports concerning any pest during or after a pest inspection or to fail to comply with criteria established by rule for structural pest control inspections;

(f) For any person to make false, misleading, or erroneous statements or reports in connection with any pesticide complaint or investigation. [1991 c 264 § 3; 1989 c 380 § 11; 1987 c 45 § 25; 1979 c 146 § 3; 1971 ex.s. c 190 § 15.]

**Construction—Severability—1987 c 45:** See notes following RCW 15.54.270.

**15.58.200 Pesticide dealer manager—License qualifications.** The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license shall be accompanied by a license fee of fifty dollars. The pesticide dealer manager license shall be a five-year license expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 38; 1989 c 380 § 15; 1981 c 297 § 19; 1971 ex.s. c 190 § 20.]

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge: RCW 15.58.415.*

**15.58.210 Pest control consultant licenses.** Except as provided in subsection (2) of this section, no individual may perform services as a pest control consultant without obtaining from the director an annual license, which license shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates or [of] a license or licenses. No individual may act as a structural pest control inspector without first obtaining from the director a pest control consultant license in the special category of structural pest control inspector. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of thirty dollars.

(2) The following are exempt from the licensing requirements of subsection (1) of this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of subsection (1) of this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet. [1991 c 264 § 4; 1991 c 109 § 39; 1989 c 380 § 16; 1983 c 95 § 5; 1971 ex.s. c 190 § 21.]

**Reviser's note:** This section was amended by 1991 c 109 § 39 and by 1991 c 264 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).  
*Surcharge: RCW 15.58.415.*

**15.58.220 Public pest control consultant license.** For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW 15.58.030(28). No person shall act as a public pest control consultant on or after February 28, 1973 without first obtaining an annual license from the

director. The license shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. Application for a license shall be on a form prescribed by the director and shall be accompanied by an annual license fee of fifteen dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision. [1991 c 109 § 40; 1989 c 380 § 17; 1986 c 203 § 4; 1981 c 297 § 20; 1971 ex.s. c 190 § 22.]

**Severability—1986 c 203:** See note following RCW 15.04.100.

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge: RCW 15.58.415.*

## Chapter 15.60 APIARIES

### Sections

15.60.170 Apiary coordinated areas—Authority to create.

**15.60.170 Apiary coordinated areas—Authority to create.** The county legislative authority of any county with a population of from forty thousand to less than seventy thousand located east of the Cascade crest and bordering on the southern side of the Snake river shall have the power to designate by an order made and published, as provided in RCW 15.60.190, certain territories as apiary coordinated areas in which they may designate the number of colonies per apiary, the distance between apiaries, the minimum required setback distance from property lines, and/or the time of year the regulations shall be in effect. No territory so designated shall be less than two square miles in area. [1991 c 363 § 15; 1989 c 354 § 64.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1989 c 354:** See note following RCW 15.32.010.

## Chapter 15.74 HARDWOODS COMMISSION

### Sections

15.74.005 Legislative purpose.  
15.74.010 Commission created.  
15.74.020 Commission authority.  
15.74.030 Commission management.  
15.74.040 Financial requirements.  
15.74.050 Obligations, liabilities, and claims.  
15.74.060 Assessments—Generally.  
15.74.070 Assessments—Failure to pay.  
15.74.900 Severability—1990 c 142.

**15.74.005 Legislative purpose.** The legislature recognizes that the economic base of the state of Washington is directly tied to the development and management of forest industries and that efforts to enhance and promote the recognition and expansion of the hardwoods industry

should be coordinated between state and federal agencies, the forest products industry, commissions, institutions of higher education, and other entities. The legislature further recognizes that the development of hardwood forests and hardwood products will require multispecies, sustained-yield management plans for industrial and nonindustrial timber tracts, the development of products and markets for all grades of hardwoods, a stable and predictable tax program for new and existing firms and financial assistance for the attraction and expansion of new and existing hardwood processing facilities. The legislature also recognizes that the welfare of the citizens of the state of Washington require, as a public purpose, a continuing effort toward the full utilization of hardwood forests and the hardwood products industry. [1990 c 142 § 1.]

**15.74.010 Commission created.** In recognition of the findings and purposes in RCW 15.74.005, there is created the Washington hardwoods commission, which is created solely for the purposes set forth in this chapter. The commission shall be comprised of seven members. All members shall be members of the hardwood industry. All members shall initially be appointed by the governor and shall be appointed to staggered terms. Three members shall be appointed for a two-year term, two members to a three-year term, and two members to a four-year term. The hardwoods commission shall, by January 1, 1991, develop a method of electing board members to replace the appointed members. Each board member shall serve until the election of his or her successor. Five voting members of the commission constitute a quorum for the transaction of any business of the commission. Each member of the commission shall be a resident of the state and over the age of twenty-one. [1990 c 142 § 2.]

**15.74.020 Commission authority.** The commission shall have the power, duty, and responsibility to assist in the retention, expansion, and attraction of hardwood-related industries by creating a climate for development and support of the industry. The commission shall coordinate efforts to enhance and promote the expansion of the forest industry among state and federal agencies, industry organizations, and institutions of higher education. The commission shall have the power and duty to develop products and markets for various species and grades of hardwoods, and to study and recommend a tax program that will attract new firms and promote stability for existing firms. The commission shall also have as its duty the development of an enhancement and protection program that will reduce waste and respect environmental sensitivity. The commission will develop financial assistance programs from public and private moneys for attraction and expansion of new and existing primary, secondary, and tertiary processing facilities. It is also appropriate that the commission utilize recognized experts in educational institutions, public and private foundations, and agencies of the state, to facilitate

research into economic development, hardwood silviculture, woodland management, and the development of new products. The commission will also work cooperatively with the department of natural resources in the development of best management practices for hardwood resources. [1990 c 142 § 3.]

**15.74.030 Commission management.** The commission shall have the power to elect a chair and such officers as the commission deems necessary and advisable. The commission shall elect a treasurer who shall be responsible for all receipts and disbursements by the commission. The treasurer's faithful discharge of duties shall be guaranteed by a bond at the sole expense of the commission. The commission shall adopt rules for its governance, which shall provide for the holding of an annual meeting for the election of officers and the transaction of other business and for such other meetings as the commission may direct. The commission shall do all things reasonably necessary to effect the purposes of this chapter. The commission shall have no legislative power. The commission may employ and discharge managers, secretaries, agents, attorneys, and other employees or staff, and may engage the services of independent contractors, prescribe their duties, and fix their compensation. Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses at the rates allowed state employees in accordance with RCW 43.03.050 and 43.03.060. [1991 c 67 § 1; 1990 c 142 § 4.]

**15.74.040 Financial requirements.** The commission shall maintain an account with one or more public depositories, and may deposit moneys in the depository and expend moneys for purposes authorized by this chapter in the form of drafts made by the commission. The commission shall keep accurate records of all receipts, disbursements, and other financial transactions in accordance with generally accepted principles of accounting, available for audit by the state auditor. [1990 c 142 § 5.]

**15.74.050 Obligations, liabilities, and claims.** Obligations incurred by the commission and liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any member, officer, employee, or agent of the commission in his or her individual capacity. The members of the commission, including employees of the commission, shall not be held responsible in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principle, agent, person, or employees, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other members of the commission. [1990 c 142 § 6.]

**15.74.060 Assessments—Generally.** To provide for permanent funding of the Washington hardwoods commission, agricultural commodity assessments shall be levied by the commission on processors of hardwoods.

An assessment is hereby levied on hardwood processors operating within the state of Washington. The assessment categories shall be based on the hardwood processor's production per calendar quarter. The assessment shall be levied based upon the following schedule:

CATEGORY	QUARTERLY PRODUCTION (THOUSAND TONS)	QUARTERLY ASSESSMENT
1	5 to 7.5	\$ 150
2	7.5 to 15	\$ 300
3	15 to 25	\$ 600
4	25 to 35	\$ 900
5	35 to 45	\$ 1,200
6	45 to 62.5	\$ 1,500
7	62.5 to 82.5	\$ 2,250
8	82.5 to 125	\$ 3,000
9	125 to 175	\$ 4,500
10	175 to 250	\$ 6,000
11	250 to 350	\$ 9,000
12	350 to 450	\$12,000
13	450 to 625	\$15,000
14	625 to 875	\$22,500
15	875 to 1125	\$30,000
16	Over 1125	\$35,000

The commission may develop by rule formulas for converting other units of measure to thousands of tons of production for determining the appropriate production category. The assessment shall be calculated based upon calendar quarters with the first assessment period beginning July 1, 1991. [1991 c 67 § 3; 1990 c 142 § 7.]

**15.74.070 Assessments—Failure to pay.** Any due and payable assessment levied under this chapter in such specified amount as may be determined by the commission shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the commission when payment is called for by the commission. In the event any person fails to pay the commission the full amount of such assessment or such other sum on or before the date due, the commission may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the commission may bring a civil action against such person or persons in a court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable. [1991 c 67 § 2.]

**15.74.900 Severability—1990 c 142.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected. [1990 c 142 § 9.]

## Chapter 15.76 AGRICULTURAL FAIRS, YOUTH SHOWS, EXHIBITIONS

### Sections

15.76.120 Classification of fairs.

**15.76.120 Classification of fairs.** For the purposes of this chapter all agricultural fairs in the state which may become eligible for state allocations shall be divided into categories, to wit:

(1) "Area fairs"—those not under the jurisdiction of boards of county commissioners; organized to serve an area larger than one county, having both open and junior participation, and having an extensive diversification of classes, displays and exhibits;

(2) "County and district fairs"—organized to serve the interests of single counties other than those in which a recognized area fair or a district fair as defined in RCW 36.37.050, is held and which are under the direct control and supervision of the county commissioners of the respective counties, which have both open and junior participation, but whose classes, displays and exhibits may be more restricted or limited than in the case of area or district fairs. There may be but one county fair in a single county: PROVIDED, HOWEVER, That the county commissioners of two or more counties may, by resolution, jointly sponsor a county fair.

(3) "Community fairs"—organized primarily to serve a smaller area than an area or county fair, which may have open or junior classes, displays, or exhibits. There may be more than one community fair in a county.

(4) "Youth shows and fairs"—approved by duly constituted agents of Washington State University and/or the Washington work force training and education coordinating board, serving three or more counties, and having for their purpose the education and training of rural youth in matters of rural living. [1991 c 238 § 74; 1961 c 61 § 3.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

## Chapter 15.80 WEIGHMASTERS

### Sections

15.80.460 Weighmaster's license—Issuance—Expiration date.  
15.80.470 Weighmaster's license—Renewal date—Penalty fee.  
15.80.500 Weigher's license—Issuance—Expiration date.

**15.80.460 Weighmaster's license—Issuance—Expiration date.** The director shall issue a license to an applicant upon his satisfaction that the applicant has satisfied the requirements of this chapter and the rules adopted hereunder and that such applicant is of good moral character, not less than eighteen years of age, and

has the ability to weigh accurately and make correct certified weight tickets. Any license issued under this chapter shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 7; 1971 ex.s. c 292 § 14; 1969 ex.s. c 100 § 17.]

**Severability**—1971 ex.s. c 292: See note following RCW 26.28.010.

**15.80.470 Weighmaster's license—Renewal date—Penalty fee.** If an application for renewal of any license provided for in this chapter is not filed prior to the expiration date, there shall be assessed and added to the renewal fee as a penalty therefor fifty percent of said renewal fee which shall be paid by the applicant before any renewal license shall be issued. The penalty shall not apply if the applicant furnishes an affidavit that he has not acted as a weighmaster or weigher subsequent to the expiration of his or her prior license. [1991 c 109 § 8; 1969 ex.s. c 100 § 18.]

**15.80.500 Weigher's license—Issuance—Expiration date.** Upon the director's satisfaction that the applicant is of good moral character, has the ability to weigh accurately and make correct certified weight tickets and that he is an employee or agent of the weighmaster, the director shall issue a weigher's license which will expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 9; 1969 ex.s. c 100 § 21.]

**Chapter 15.90**

**WILD MUSHROOM HARVESTING AND PROCESSING**

Sections	
15.90.010	Definitions.
15.90.020	Mushroom buyer or dealer license—Generally.
15.90.030	Mushroom buyers—Disclosure.
15.90.040	Mushroom dealers—Disclosure—Department harvest reporting.

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

- (1) "Department" means the department of agriculture.
- (2) "Wild mushroom" means a mushroom that is not cultivated or propagated by artificial means.
- (3) "Mushroom buyer" means a person who buys wild mushrooms from a mushroom harvester for eventual resale.
- (4) "Mushroom harvester" means a person who picks wild mushrooms for sale or who picks wild mushrooms as an employee of a mushroom buyer or dealer.

(5) "Mushroom dealer" means a person, other than a mushroom buyer, who purchases and handles wild mushrooms in any manner whatsoever for eventual resale, either wholesale or retail. [1990 c 20 § 1; 1988 c 230 § 1.]

**15.90.020 Mushroom buyer or dealer license—Generally.** (1) A person may not act as a mushroom buyer or mushroom dealer without an annual license. Any person applying for such a license shall file an application on a form prescribed by the department, and accompanied by the following license fee:

- (a) Mushroom buyer, seventy-five dollars;
  - (b) Mushroom dealer, three hundred seventy-five dollars.
- (2) The mushroom buyer or mushroom dealer shall display the license in a manner visible to the public. [1990 c 20 § 2; 1988 c 230 § 2.]

**15.90.030 Mushroom buyers—Disclosure.** (1) A mushroom buyer who obtains wild mushrooms shall complete a form prescribed by the department that includes the following:

- (a) The site at which the mushrooms were purchased by the buyer;
- (b) The amount, by weight, of each species of mushrooms obtained;
- (c) The approximate location of the harvest site;
- (d) The date that the mushrooms were harvested;
- (e) The price paid to the harvester;
- (f) The name, address, and license number of the mushroom dealer to whom the mushrooms are sold;
- (g) Any additional information that the department, by rule, may require.

(2) Forms completed under this section shall be mailed or delivered to the department within fifteen days after the end of the month in which the mushrooms were delivered to the dealer.

(3) Mushroom dealers shall comply with the requirements of this section when obtaining wild mushrooms from any source other than a licensed mushroom buyer. [1990 c 20 § 3; 1988 c 230 § 3.]

**15.90.040 Mushroom dealers—Disclosure—Department harvest reporting.** (1) Mushroom dealers shall annually, by December 31, complete and mail or deliver to the department a form prescribed by the department that includes for each variety of mushrooms:

- (a) The quantity by weight sold within Washington, within the United States outside Washington, and to individual foreign countries;
  - (b) Any additional information that the department, by rule, may require.
- (2) The department shall publish harvest totals in conjunction with United States department of agriculture crop reporting statistics as well as a compilation of the information received under subsection (1)(a) of this section. [1990 c 20 § 4; 1988 c 230 § 4.]

## Chapter 15.92

CENTER FOR SUSTAINING AGRICULTURE AND  
NATURAL RESOURCES

Sections	
15.92.005	Finding.
15.92.010	Definitions.
15.92.020	Center established.
15.92.030	Primary activities—Cooperative with University of Washington.
15.92.040	Administrator.
15.92.050	Food and environmental quality laboratory.
15.92.060	Laboratory responsibilities.
15.92.070	Board to advise laboratory.
15.92.080	Annual report—Acceptable risk of human and environmental exposure.

**15.92.005 Finding.** The legislature finds that public concerns are increasing about the need for significant efforts to develop sustainable systems in agriculture. The sustainable systems would address many anxieties, including the erosion of agricultural lands, the protection and wise utilization of natural resources, and the safety of food production. Consumers have demonstrated their apprehension in the marketplace by refusing to purchase products whose safety is suspect and consumer confidence is essential for a viable agriculture in Washington. Examples of surface and ground water contamination by pesticides and chemical fertilizers raise concerns about deterioration of environmental quality. Reducing soil erosion would maintain water quality and protect the long-term viability of the soil for agricultural productivity. Both farmers and farm labor are apprehensive about the effects of pesticides on their health and personal safety. Development of sustainable farming systems would strengthen the economic viability of Washington's agricultural production industry.

Public anxieties over the use of chemicals in agriculture have resulted in congress amending the federal insecticide, fungicide and rodenticide act which requires all pesticides and their uses registered before November 1984 to be reregistered, complying with present standards, by the end of 1997. The legislature finds that the pesticide reregistration process and approval requirements could reduce the availability of chemical pesticides for use on minor crops in Washington and may jeopardize the farmers' ability to grow these crops in Washington.

The legislature recognizes that Washington State University supports research and extension programs that can lead to reductions in pesticide use where viable alternatives are both environmentally and economically sound. Yet, the legislature finds that a focused and coordinated program is needed to develop possible alternatives, increase public confidence in the safety of the food system, and educate farmers and natural resource managers on land stewardship.

The legislature further finds that growers, processors, and agribusiness depend upon pesticide laboratories associated with manufacturers, regional universities, state departments of agriculture, and the United States department of agriculture to provide residue data for registering essential pesticides. The registration of uses for

minor crops, which include vegetables, fruits, nuts, berries, nursery and greenhouse crops, and reregistration of needed chemicals, are activities of particular concern to ensure crop production. Furthermore, public demands for improved information and education on pesticides and risk assessment efforts justify these efforts.

The legislature further finds that multiple alternatives are needed for pest control, including programs for integrated pest management, genetic resistance to pests, biological control, cultural practices, and the use of appropriate approved chemicals. [1991 c 341 § 1.]

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

(1) "Center" means the center for sustaining agriculture and natural resources established at Washington State University.

(2) "Laboratory" means the food and environmental quality laboratory established at Washington State University at Tri-Cities.

(3) "Integrated pest management" is a strategy that uses various combinations of pest control methods, biological, cultural, and chemical, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.

(4) "IR-4 program" means interregional research project number four, clearances of chemicals and biologics for minor or special uses, established in 1963 by the cooperative state research service of the United States department of agriculture, the coordinated national program involving land-grant universities and the United States department of agriculture to provide data required for the registration of pesticides needed for the production of minor crops.

(5) "Natural resources" means soil, water, air, forests, wetlands, wildlands, and wildlife.

(6) "Pesticide" means chemical or biologic used to control pests such as insect, rodent, nematode, snail, slug, weed, virus, or any organism the director of agriculture may declare to be a pest.

(7) "Registration" means use of a pesticide approved by the state department of agriculture.

(8) "Sustainable agriculture" means a systems approach to farming, ranching, and natural resource production that builds on and supports the physical, biological, and ecological resource base upon which agriculture depends. The goals of sustainable agriculture are to provide human food and fiber needs in an economically viable manner for the agriculture industry and in a manner which protects the environment and contributes to the overall safety and quality of life. [1991 c 341 § 2.]

**15.92.020 Center established.** A center for sustaining agriculture and natural resources is established at Washington State University. The center shall provide state-wide leadership in research, extension, and resident instruction programs to sustain agriculture and natural resources. [1991 c 341 § 3.]

**15.92.030 Primary activities—Cooperative with University of Washington.** The center is to work cooperatively with the University of Washington to maximize the use of financial resources in addressing forestry issues. The center's primary activities include but are not limited to:

(1) Research programs which focus on developing possible alternative production and marketing systems through:

- (a) Integrated pest management;
- (b) Biological pest control;
- (c) Plant and animal breeding;
- (d) Conservation strategies; and
- (e) Understanding the ecological basis of nutrient management;

(2) Extension programs which focus on:

(a) On-farm demonstrations and evaluation of alternative production practices;

(b) Information dissemination, and education concerning sustainable agriculture and natural resource systems; and

(c) Communication and training on sustainable agriculture strategies for consumers, producers, and farm and conservation-related organizations;

(3) On-farm testing and research to calculate and demonstrate costs and benefits, including economic and environmental benefits and trade-offs, inherent in farming systems and technologies;

(4) Crop rotation and other natural resource processes such as pest-predator interaction to mitigate weed, disease, and insect problems, thereby reducing soil erosion and environmental impacts;

(5) Management systems to improve nutrient uptake, health, and resistance to diseases and pests by incorporating the genetic and biological potential of plants and animals into production practices;

(6) Soil management, including conservation tillage and other practices to minimize soil loss and maintain soil productivity; and

(7) Animal production systems emphasizing preventive disease practices and mitigation of environmental pollution. [1991 c 341 § 4.]

**15.92.040 Administrator.** The center is managed by an administrator. The administrator shall hold a joint appointment as an assistant director in the Washington State University agricultural research center and cooperative extension.

(1) A committee shall advise the administrator. The dean of the Washington State University college of agriculture and home economics shall make appointments to the advisory committee so the committee is representative of affected groups, such as the Washington department of social and health services, the Washington department of ecology, the Washington department of agriculture, the chemical and fertilizer industry, food processors, marketing groups, consumer groups, environmental groups, farm labor, and natural resource and agricultural organizations.

(2) Each appointed member shall serve a term of three years, and one-third are appointed every year. The

entire committee is appointed the first year: One-third for a term of one year, one-third for a term of two years, and one-third for a term of three years. A member shall continue to serve until a successor is appointed. Vacancies are filled by appointment for the unexpired term. The members of the advisory committee shall serve without compensation but shall be reimbursed for travel expenses incurred while engaged in the business of the committee as provided in RCW 43.03.050 and 43.03.060.

(3) It is the responsibility of the administrator, in consultation with the advisory committee, to:

(a) Recommend research and extension priorities for the center;

(b) Conduct a competitive grants process to solicit, review, and prioritize research and extension proposals; and

(c) Advise Washington State University on the progress of the development and implementation of research, teaching, and extension programs that sustain agriculture and natural resources of Washington. [1991 c 341 § 5.]

**15.92.050 Food and environmental quality laboratory.** A food and environmental quality laboratory operated by Washington State University is established in the Tri-Cities area to conduct pesticide residue studies concerning fresh and processed foods, in the environment, and for human and animal safety. The laboratory shall cooperate with public and private laboratories in Washington, Idaho, and Oregon. [1991 c 341 § 6.]

**15.92.060 Laboratory responsibilities.** The responsibilities of the laboratory shall include:

(1) Evaluating regional requirements for minor crop registration through the federal IR-4 program;

(2) Conducting studies on the fate of pesticides on crops and in the environment, including soil, air, and water;

(3) Improving pesticide information and education programs; and

(4) Assisting federal and state agencies with questions regarding registration of pesticides which are deemed critical to crop production, consistent with priorities established in RCW 15.92.070; and

(5) Assisting in the registration of biopesticides, pheromones, and other alternative chemical and biological methods. [1991 c 341 § 7.]

**15.92.070 Board to advise laboratory.** The laboratory is advised by a board appointed by the dean of the Washington State University college of agriculture and home economics. The dean shall cooperate with appropriate officials in Washington, Idaho, and Oregon in selecting board members.

(1) The board shall consist of one representative from each of the following interests: A human toxicologist or a health professional knowledgeable in worker exposure to pesticides, the Washington State University vice-

provost for research or research administrator, representatives from the state department of agriculture, the department of ecology, the department of health, the department of labor and industry [industries], privately owned Washington pesticide analytical laboratories, federal regional pesticide laboratories, an Idaho and Oregon laboratory, whether state, university, or private, a chemical and fertilizer industry representative, farm organizations, food processors, marketers, farm labor, environmental organizations, and consumers. Each board member shall serve a three-year term. The members of the board shall serve without compensation but shall be reimbursed for travel expenses incurred while engaged in the business of the board as provided in RCW 43.03.050 and 43.03.060.

(2) The board is in liaison with the pesticide advisory board and the pesticide incident reporting and tracking panel and shall review the chemicals investigated by the laboratory according to the following criteria:

(a) Chemical uses for which a data base exists on environmental fate and acute toxicology, and that appear safer environmentally than pesticides available on the market;

(b) Chemical uses not currently under evaluation by public laboratories in Idaho or Oregon for use on Washington crops;

(c) Chemicals that have lost or may lose their registration and that no reasonably viable alternatives for Washington crops are known; and

(d) Other chemicals vital to Washington agriculture.

(3) The laboratory shall conduct research activities using approved good laboratory practices, namely procedures and recordkeeping required of the national IR-4 minor use pesticide registration program.

(4) The laboratory shall coordinate activities with the national IR-4 program. [1991 c 341 § 8.]

**15.92.080 Annual report—Acceptable risk of human and environmental exposure.** The center for sustaining agriculture and natural resources at Washington State University shall prepare and present an annual report to the appropriate legislative committees. The report shall include the center's priorities to find alternatives to the use of agricultural chemicals that pose human and environmental risks. The first report, due no later than November 1, 1992, shall use federal criteria of acceptable risk of human and environmental exposure for establishing such priorities and for conducting responsive research and education programs. For each subsequent year, the report shall detail the center's progress toward meeting the goals identified in the center's plan. [1991 c 341 § 9.]

## Title 16

### ANIMALS, ESTRAYS, BRANDS AND FENCES

#### Chapters

#### 16.49 Custom slaughtering.

[1990-91 RCW Supp—page 168]

**16.52 Prevention of cruelty to animals.**

**16.57 Identification of livestock.**

**16.58 Identification of cattle through licensing of certified feed lots.**

**16.65 Public livestock markets.**

**16.67 Washington state beef commission.**

**16.70 Control of pet animals infected with diseases communicable to humans.**

## Chapter 16.49

### CUSTOM SLAUGHTERING

#### Sections

16.49.440 Custom slaughtering and custom meat licenses—  
Generally—Equipment inspection.

16.49.442 Additional fee for late renewal—Exception.

16.49.630 Custom meat facilities—License—Generally.

**16.49.440 Custom slaughtering and custom meat licenses—Generally—Equipment inspection.** It shall be unlawful for any person to act as a custom farm slaughterer or to operate a custom slaughtering establishment or custom meat facility without first obtaining a license from the director. The license shall be an annual license and shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. For custom farm slaughterers, a separate license shall be required for each mobile unit. Each custom slaughtering establishment and custom meat facility shall also require a separate license. Application for a license shall be made on a form prescribed by the director of agriculture and accompanied by a twenty-five dollar annual license fee. The application shall include the full name and address of the applicant. If the applicant is a partnership or corporation, the application shall include the full name and address of each partner or officer. The application shall further state the principal business address of the applicant in the state or elsewhere and the name of a resident of this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director of agriculture. The license shall be issued by the director upon his satisfaction that the applicant's equipment is properly constructed, has the proper sanitary and mechanical equipment and is maintained in a sanitary manner as required under this chapter and/or rules adopted hereunder. The director of agriculture shall also provide for the periodic inspection of equipment used by licensees to assure compliance with the provisions of this chapter and the rules adopted hereunder. [1991 c 109 § 4; 1987 c 77 § 1; 1985 c 415 § 5; 1959 c 204 § 44.]

**Savings—1987 c 77:** See note following RCW 16.49.435.

**16.49.442 Additional fee for late renewal—Exception.** If the application for the renewal of any license provided for under this chapter is not filed prior to the expiration date, an additional fee of twenty-five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license

shall be issued: PROVIDED, That the additional fee shall not be charged if the applicant furnishes an affidavit certifying that the applicant has not carried on the activity for which the applicant was licensed under this chapter subsequent to the expiration of the applicant's license. [1991 c 109 § 5; 1985 c 415 § 11.]

**16.49.630 Custom meat facilities—License—**

**Generally.** It shall be unlawful for any person to operate a custom meat facility without first obtaining an annual license from the department of agriculture. Application for such license shall be on a form prescribed by the department and accompanied by a twenty-five dollar license fee. Such application shall include the full name of the applicant, if such applicant is an individual, receiver, or trustee; and the full name of each member of the firm or the names of the officers of the corporation if such applicant is a firm or corporation. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of the person domiciled in this state authorized to receive and accept service of legal process of all kinds for the applicant, and the applicant shall supply any other information required by the department. All custom meat facility licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 6; 1971 ex.s. c 98 § 5.]

**Chapter 16.52**

**PREVENTION OF CRUELTY TO ANIMALS**

Sections

16.52.300 Dogs or cats used as bait—Penalties.

**16.52.300 Dogs or cats used as bait—Penalties.**

(1) Any person who uses domestic dogs or cats as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, in such a fashion as to torture, torment, deprive of necessary sustenance, cruelly beat, or mutilate such animals, shall be guilty of a misdemeanor.

(2) Any person who violates the provisions of subsection (1) of this section, and whose actions result in the death of the animal, shall be guilty of a gross misdemeanor.

(3) Any person who captures by trap a domestic dog or cat to be used as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, in such a fashion as to torture, torment, deprive of necessary sustenance, cruelly beat, or mutilate such animals, shall be guilty of a misdemeanor.

(4) Any person who violates the provisions of subsection (3) of this section, and whose actions result in the death of the animal, shall be guilty of a gross misdemeanor.

(5) If a person violates this section, law enforcement authorities shall seize and hold the animals being

trained. Such animals shall be disposed of by the court pursuant to the provisions of RCW 16.52.200(3).

(6) This section shall not in any way interfere with or impair the operation of any provision of Title 28B RCW, relating to higher education or biomedical research. [1990 c 226 § 1.]

**Chapter 16.57**

**IDENTIFICATION OF LIVESTOCK**

Sections

16.57.080 Schedule for renewal of registered brands.  
 16.57.120 Removal or alteration of brand—Penalty.  
 16.57.160 Cattle—Mandatory brand inspection points.  
 16.57.240 Record of cattle.  
 16.57.280 Possession of livestock marked with another's brand—Penalty.  
 16.57.320 Disposition of proceeds of sale when no proof of ownership—Penalty for accepting proceeds after sale, trade, etc.  
 16.57.360 Civil infractions.  
 16.57.380 Horses—Mandatory brand inspection points—Powers of director.

**16.57.080 Schedule for renewal of registered brands.**

The director shall establish by rule a schedule for the renewal of registered brands. The fee for renewal of the brands shall be twenty-five dollars for each two-year period of brand ownership, except that the director may, in adopting a renewal schedule, provide for the collection of renewal fees on a prorated basis. At least one hundred twenty days before the expiration of a registered brand, the director shall notify by letter the owner of record of the brand that on the payment of the requisite application fee and application of renewal the director shall issue the proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent registration period. The failure of the registered owner to pay the renewal fee by the date required by rule shall cause such owner's brand to revert to the department. The director may for a period of one year following such reversion, reissue such brand only to the prior registered owner upon payment of twenty-five dollars and an additional fee of ten dollars for renewal subsequent to the regular renewal period. The director may at his discretion, if such brand is not reissued within one year to the prior registered owner, issue such brand to any other applicant. [1991 c 110 § 1; 1974 ex.s. c 64 § 2; 1971 ex.s. c 135 § 2; 1965 c 66 § 3; 1961 c 148 § 1; 1959 c 54 § 8.]

**16.57.120 Removal or alteration of brand—Penalty.** No person shall remove or alter a brand of record on livestock without first having secured the written permission of the director. Violation of this section shall be a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 110 § 2; 1959 c 54 § 12.]

**16.57.160 Cattle—Mandatory brand inspection points.** The director may by rule adopted subsequent to a public hearing designate any point for mandatory brand inspection of cattle or the furnishing of proof that cattle

passing or being transported through such points have been brand inspected and are lawfully being moved. Further, the director may stop vehicles carrying cattle to determine if such cattle are identified, branded, or accompanied by the form prescribed by the director under RCW 16.57.240 or a brand certificate issued by the department. [1991 c 110 § 3; 1981 c 296 § 16; 1971 ex.s. c 135 § 4; 1959 c 54 § 16.]

**Effective date**—1981 c 296 § 16: "Section 16 of this amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 19, 1981]." [1981 c 296 § 34.]

**Severability**—1981 c 296: See note following RCW 15.04.020.

**16.57.240 Record of cattle.** Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting cattle shall keep a record on forms prescribed by the director. Such forms shall show the number, specie, brand or other method of identification of such cattle and any other necessary information required by the director. The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by a certificate of permit or an official brand inspection certificate or bill of sale:

(1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle;

(2) When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle. [1991 c 110 § 4; 1985 c 415 § 8; 1981 c 296 § 18; 1959 c 54 § 24.]

**Severability**—1981 c 296: See note following RCW 15.04.020.

**16.57.280 Possession of livestock marked with another's brand—Penalty.** No person shall knowingly have unlawful possession of any livestock marked with a recorded brand or tattoo of another person unless:

(1) Such livestock lawfully bears the person's own healed recorded brand, or

(2) Such livestock is accompanied by a certificate of permit from the owner of the recorded brand or tattoo, or

(3) Such livestock is accompanied by a brand inspection certificate, or

(4) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

A violation of this section constitutes a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 110 § 5; 1959 c 54 § 28.]

**16.57.320 Disposition of proceeds of sale when no proof of ownership—Penalty for accepting proceeds after sale, trade, etc.** If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the director with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the recorded brand. However, it shall be a gross misdemeanor for the owner of the recorded brand to knowingly accept such funds after he or she has sold, bartered or traded such animals to the claimant or any other person. A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 110 § 6; 1959 c 54 § 32.]

**16.57.360 Civil infractions.** The department is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

The violation of any provision of this chapter and/or rules and regulations adopted hereunder shall constitute a class I civil infraction as provided under chapter 7.80 RCW unless otherwise specified herein. [1991 c 110 § 7; 1959 c 54 § 36.]

**16.57.380 Horses—Mandatory brand inspection points—Powers of director.** The director may by rule adopted subsequent to a public hearing designate any point for mandatory brand inspection of horses or the furnishing of proof that horses passing or being transported through such points have been brand inspected and are lawfully being moved. Further, the director may stop vehicles carrying horses to determine if such horses are identified or branded. [1991 c 110 § 8; 1981 c 296 § 22; 1974 ex.s. c 38 § 1.]

**Severability**—1981 c 296: See note following RCW 15.04.020.

## Chapter 16.58

### IDENTIFICATION OF CATTLE THROUGH LICENSING OF CERTIFIED FEED LOTS

#### Sections

16.58.060	Certified feed lot license—Expiration—Late renewal.
16.58.090	Repealed.
16.58.095	Brand inspection required for cattle not having brand inspection certificate.
16.58.110	Records—Examination.
16.58.120	Records required at each certified feed lot.
16.58.130	Fee for each head of cattle handled—Failure to pay.
16.58.160	Suspension of license awaiting investigation.

**16.58.060 Certified feed lot license—Expiration—Late renewal.** The director shall establish by rule an expiration date or dates for all certified feed lot licenses. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. If an application for renewal of a certified feed lot license is not received by the department per the date required by rule or should a person fail, refuse, or neglect to apply for renewal of a preexisting license on or before the date of expiration, that person

shall be assessed an additional twenty-five dollars which shall be added to the regular license fee and shall be paid before the director may issue a license to the applicant. [1991 c 109 § 10; 1971 ex.s. c 181 § 6.]

**16.58.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**16.58.095 Brand inspection required for cattle not having brand inspection certificate.** All cattle entering or reentering a certified feed lot must be inspected for brands upon entry, unless they are accompanied by a brand inspection certificate issued by the director, or any other agency authorized in any state or Canadian province by law to issue such a certificate. Licensees shall report a discrepancy between cattle entering or reentering a certified feed lot and the brand inspection certificate accompanying the cattle to the nearest brand inspector immediately. A discrepancy may require an inspection of all the cattle entering or reentering the lot, except as may otherwise be provided by rule. [1991 c 109 § 11; 1979 c 81 § 6.]

**16.58.110 Records—Examination.** All certified feed lots shall furnish the director with records as requested by him from time to time on all cattle entering or on feed in said certified feed lots and dispersed therefrom. All such records shall be subject to examination by the director for the purpose of maintaining the integrity of the identity of all such cattle. The director may make the examinations only during regular business hours except in an emergency to protect the interest of the owners of such cattle. [1991 c 109 § 12; 1971 ex.s. c 181 § 11.]

**16.58.120 Records required at each certified feed lot.** The licensee shall maintain sufficient records as required by the director at each certified feed lot, if said licensee operates more than one certified feed lot. [1991 c 109 § 13; 1971 ex.s. c 181 § 12.]

**16.58.130 Fee for each head of cattle handled—Failure to pay.** Each licensee shall pay to the director a fee of ten cents for each head of cattle handled through the licensee's feed lot. Payment of such fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments. [1991 c 109 § 14; 1979 c 81 § 4; 1971 ex.s. c 181 § 13.]

**16.58.160 Suspension of license awaiting investigation.** The director may, when a certified feed lot's conditions become such that the integrity of reports or records of the cattle therein becomes doubtful, suspend such certified feed lot's license until such time as the director can conduct an investigation to carry out the purpose of this chapter. [1991 c 109 § 15; 1971 ex.s. c 181 § 16.]

## Chapter 16.65

### PUBLIC LIVESTOCK MARKETS

Sections	
16.65.030	Public livestock market license required—Application—Generally.
16.65.044	Public livestock market—Open consignment horse sale—Consignor's name.
16.65.370	Watering, feeding facilities—Unlawful acts.
16.65.420	Application for sales day for new salesyard, change of or additional sales days, special sales—Considerations for allocation.
16.65.450	Orders—Appeal.

**16.65.030 Public livestock market license required—Application—Generally.** (1) On and after June 10, 1959, no person shall operate a public livestock market without first having obtained a license from the director. Application for such license or renewal thereof shall be in writing on forms prescribed by the director, and shall include the following:

(a) A legal description of the property upon which the public livestock market shall be located.

(b) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens and all facilities the applicant proposes to use in the operation of such public livestock market.

(c) A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a public livestock market.

(d) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(e) The weekly or monthly sales day or days on which the applicant proposes to operate his public livestock market sales.

(f) Projected source and quantity of livestock, by county, anticipated to be handled.

(g) Projected income and expense statements for the first year's operation.

(h) Facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(i) Such other information as the director may reasonably require.

(2) The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:

(a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and

(b) The present market services elsewhere available to the trade area proposed to be served.

(3) Such application shall be accompanied by a license fee based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred dollar fee;

(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a two hundred dollar fee; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a three hundred dollar fee.

(4) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate license fee.

(5) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued. [1991 c 17 § 1; 1979 ex.s. c 91 § 1; 1971 ex.s. c 192 § 1; 1967 ex.s. c 120 § 5; 1961 c 182 § 2; 1959 c 107 § 3.]

**16.65.044 Public livestock market—Open consignment horse sale—Consignor's name.** It is lawful for the operator of a public livestock market or an open consignment horse sale, upon receiving a request to do so, to allow the announcement of the correct and accurate name of the consignor of any cattle or horses being presented for sale to potential buyers. [1991 c 17 § 5.]

**16.65.370 Watering, feeding facilities—Unlawful acts.** Pens used to hold livestock for a period of twenty-four hours or more in a public livestock market shall have watering and feeding facilities for livestock held in such pens. It shall be unlawful for a public livestock market to hold livestock for a period longer than twenty-four hours without feeding and watering such livestock. An operator of a public livestock market may also refuse to accept the consignment of any livestock that the licensee may believe to have been inadequately fed or otherwise inadequately cared for prior to the delivery of the livestock in question to the public livestock market. [1991 c 17 § 2; 1959 c 107 § 37.]

**16.65.420 Application for sales day for new salesyard, change of or additional sales days, special sales—Considerations for allocation.** (1) Any application for sales days or days for a new salesyard, and any application for a change of sales day or days or additional sales day or days for an existing yard shall be subject to approval by the director, subsequent to a hearing as provided for in this chapter and the director is hereby authorized to allocate these dates and type and class of livestock which may be sold on these dates. In considering the allocation of such sales days, the director shall give appropriate consideration, among other relevant factors, to the following:

- (a) The geographical area which will be affected;
- (b) The conflict, if any, with sales days already allocated in the area;
- (c) The amount and class of livestock available for marketing in the area;

(d) Buyers available to such market;

(e) Any other conditions affecting the orderly marketing of livestock.

(2) No special sales shall be conducted by the licensee unless the licensee has applied to the director in writing fifteen days prior to such proposed sale and such sale date shall be approved at the discretion of the director.

(3) In any case that a licensee fails to conduct sales on the sales days allocated to the licensee, the director shall, subsequent to a hearing, be authorized to revoke an allocation for nonuse. The rate of usage required to maintain an allocation shall be established by rule. [1991 c 17 § 3; 1963 c 232 § 16; 1961 c 182 § 6. Prior: 1959 c 107 § 42.]

**16.65.450 Orders—Appeal.** Any licensee or applicant who feels aggrieved by an order of the director may appeal to the superior court of the county in the state of Washington of the residence of the licensee or applicant where the trial on such appeal shall be held de novo. [1991 c 17 § 4; 1959 c 107 § 46.]

## Chapter 16.67

### WASHINGTON STATE BEEF COMMISSION

#### Sections

16.67.040	Beef commission created—Generally.
16.67.050	Designation of positions—Terms.
16.67.060	Director to appoint members.
16.67.070	Vacancies—Compensation and travel expenses.

**16.67.040 Beef commission created—Generally.** There is hereby created a Washington state beef commission to be thus known and designated. The commission shall be composed of three beef producers, two dairy (beef) producers, three feeders, one livestock salesyard operator, and one meat packer. In addition there will be one ex officio member without the right to vote from the department of agriculture to be designated by the director thereof.

A majority of voting members shall constitute a quorum for the transaction of any business.

All appointed members as stated in RCW 16.67.060 shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in that phase of the cattle industry he represents for a period of five years, and has during that period derived a substantial portion of his income therefrom, or have a substantial investment in cattle as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the production of cattle or dressed beef, or a manager or executive officer of such corporation. Producer members of the commission shall not be directly engaged in the business of being a meat packer, or as a feeder, feeding cattle other than their own. Said qualifications must continue throughout each member's term of office. [1991 c 9 § 1; 1969 c 133 § 3.]

**16.67.050 Designation of positions—Terms.** The appointive positions on the commission shall be designated as follows: The three beef producers shall be designated positions one, two and three; one dairy (beef) producer shall be designated position four and one, position ten; the three feeders shall be designated positions five, six and seven; the livestock salesyard operator shall be designated position eight; the meat packer shall be designated position nine.

The regular term of office shall be three years from the date of appointment and until their successors are appointed. However, the first term of office for position ten shall terminate July 1, 1994, and the first terms of the members whose terms began on July 1, 1969 shall be as follows: Positions one, four and seven shall terminate July 1, 1970; positions two, five and eight shall terminate July 1, 1971; positions three, six and nine shall terminate July 1, 1972. [1991 c 9 § 2; 1969 c 133 § 4.]

**16.67.060 Director to appoint members.** The director shall appoint the members of the commission. In making such appointments, the director shall take into consideration recommendations made to him or her by organizations who represent or who are engaged in the same type of production or business as the person recommended for appointment as a member of the commission. [1991 c 9 § 3; 1969 c 133 § 5.]

**16.67.070 Vacancies—Compensation and travel expenses.** In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of such position shall be filled by the director forthwith.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1991 c 9 § 4; 1984 c 287 § 19; 1975-'76 2nd ex.s. c 34 § 22; 1969 c 133 § 6.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

## Chapter 16.70

### CONTROL OF PET ANIMALS INFECTED WITH DISEASES COMMUNICABLE TO HUMANS

#### Sections

16.70.010 Purpose.  
16.70.020 Definitions.

**16.70.010 Purpose.** The incidence of disease communicated to human beings by contact with pet animals has shown an increase in the past few years. The danger to human beings from such pets infected with disease communicable to humans has demonstrated the necessity for legislation to authorize the secretary of the department of health and the state board of health to take such action as is necessary to control the sale, importation, movement, transfer, or possession of such animals

where it becomes necessary in order to protect the public health and welfare. [1991 c 3 § 2; 1971 c 72 § 1.]

**16.70.020 Definitions.** The following words or phrases as used in this chapter shall have the following meanings unless the context indicates otherwise:

(1) "Pet animals" means dogs (Canidae), cats (Felidae), monkeys and other similar primates, turtles, psittacine birds, skunks, or any other species of wild or domestic animals sold or retained for the purpose of being kept as a household pet.

(2) "Secretary" means the secretary of the department of health or his or her designee.

(3) "Department" means the department of health.

(4) "Board" means the Washington state board of health.

(5) "Person" means an individual, group of individuals, partnership, corporation, firm, or association.

(6) "Quarantine" means the placing and restraining of any pet animal or animals by direction of the secretary, either within a certain described and designated enclosure or area within this state, or the restraining of any such pet animal or animals from entering this state. [1991 c 3 § 3; 1971 c 72 § 2.]

## Title 17

### WEEDS, RODENTS AND PESTS

#### Chapters

17.04 Weed districts.  
17.21 Washington pesticide application act.  
17.24 Insect pests and plant diseases.  
17.28 Mosquito control districts.

#### Chapter 17.04

#### WEED DISTRICTS

#### Sections

17.04.180 County and state lands.

**17.04.180 County and state lands.** Whenever any lands belonging to the county are included within a weed district, the county legislative authority shall determine the amount of the taxes for which the lands would be liable if they were in private ownership, and the county legislative authority shall appropriate from the current expense fund of the county sufficient money to pay such amounts. Whenever any state lands are within any weed district, the county treasurer shall certify annually and forward to the appropriate state agency for payment a statement showing the amount of the tax to which the lands would be liable if they were in private ownership, separately describing each lot or parcel and, if delinquent, with interest and penalties consistent with RCW 84.56.020. [1991 c 245 § 1; 1984 c 7 § 18; 1971 ex.s. c 119 § 1; 1961 c 250 § 4; 1929 c 125 § 8; RRS § 2777. Prior: 1921 c 150 § 7.]

**Severability—1984 c 7:** See note following RCW 47.01.141.

## Chapter 17.21

## WASHINGTON PESTICIDE APPLICATION ACT

Sections	
17.21.070	Commercial pesticide applicator license—Requirements.
17.21.110	Commercial pesticide operator license—Requirements.
17.21.122	Private-commercial applicator license—Requirements.
17.21.126	Private applicators—Certification requirements.
17.21.129	Demonstration and research applicator license—Requirements.
17.21.132	License, certification—Applications.
17.21.140	Renewal—Delinquency.
17.21.190	Damages due to use or application of pesticide—Report of loss required.
17.21.220	Application of chapter to governmental entities—Exemption—Liability.

**17.21.070 Commercial pesticide applicator license—Requirements.** It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for the license shall be accompanied by a fee of one hundred twenty-five dollars and in addition a fee of ten dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide. Commercial pesticide applicator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 30; 1989 c 380 § 37; 1981 c 297 § 21; 1967 c 177 § 3; 1961 c 249 § 7.]

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge: RCW 17.21.360.*

**17.21.110 Commercial pesticide operator license—Requirements.** It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license shall be in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a license to apply pesticides manually and/or to operate ground apparatuses shall be accompanied by a license fee of thirty dollars. Application for a license to operate an aerial apparatus shall be accompanied by a license fee of thirty dollars. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator. Commercial pesticide operator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates

of a license or licenses. [1991 c 109 § 31; 1989 c 380 § 40; 1981 c 297 § 22; 1967 c 177 § 6; 1961 c 249 § 11.]

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge: RCW 17.21.360.*

**17.21.122 Private-commercial applicator license—Requirements.** It shall be unlawful for any person to act as a private-commercial applicator without having obtained a private-commercial applicator license from the director. Application for a private-commercial applicator license shall be accompanied by a license fee of fifty dollars before a license may be issued. Private-commercial applicator licenses issued by the director shall be five year licenses expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 32; 1989 c 380 § 41; 1979 c 92 § 6.]

*Surcharge: RCW 17.21.360.*

**17.21.126 Private applicators—Certification requirements.** It shall be unlawful for any person to act as a private applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use shall be relative to hazards according to RCW 17.21.030 as now or hereafter amended. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt by rule these standards. Application for private applicator certification shall be accompanied by a license fee of fifteen dollars before a certification may be issued. Private applicator certification issued by the director shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 33; 1989 c 380 § 42; 1979 c 92 § 8.]

**17.21.129 Demonstration and research applicator license—Requirements.** Except as provided in RCW 17.21.203(1), it is unlawful for a person to use or supervise the use of any pesticide which is restricted to use by certified applicators, on small experimental plots for research purposes when no charge is made for the pesticide and its application, without a demonstration and research applicator's license.

A license fee of fifty dollars shall be paid before a demonstration and research license may be issued. The demonstration and research applicator license shall be a five year license expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 34; 1989 c 380 § 43; 1987 c 45 § 30; 1981 c 297 § 26.]

**Construction—Severability—1987 c 45:** See notes following RCW 15.54.270.

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge:* RCW 17.21.360.

#### 17.21.132 License, certification—Applications.

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director. The application shall state the license or certification and the classification(s) the applicant is applying for and the method in which the pesticides are to be applied. Application for a license to apply pesticides shall be accompanied by the required fee. Renewal applications shall be filed on or before the applicable expiration date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. [1991 c 109 § 35; 1989 c 380 § 44.]

**17.21.140 Renewal—Delinquency.** (1) If the application for renewal of any license provided for in this chapter is not filed on or prior to the expiration date of the license as set by rule by the director, a penalty of twenty-five dollars for the commercial pesticide applicator's license, and a penalty equivalent to the license fee for any other license, shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a licensee subsequent to the expiration of the license.

(2) Any license for which a timely renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied. [1991 c 109 § 36; 1989 c 380 § 47; 1961 c 249 § 14.]

**17.21.190 Damages due to use or application of pesticide—Report of loss required.** Any person suffering property loss or damage resulting from the use or application by others of any pesticide shall file with the director a verified report of loss setting forth, so far as known to the claimant, the following:

- (1) The name and address of the claimant.
- (2) The type, kind, property alleged to be injured or damaged.
- (3) The name of the person applying the pesticide and allegedly responsible.
- (4) The name of the owner or occupant of the property for whom such application of the pesticide was made.

The report shall be filed within thirty days from the time that the property loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report shall be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight

hours to initiate an investigation, depending on the severity of the damage.

Any person filing a report of loss under this section shall cooperate with the department in conducting an investigation of such a report and shall provide the department or authorized representatives of the department access to any affected property and any other necessary information relevant to the report. If a claimant refuses to cooperate with the department, the report shall not be acted on by the department.

The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

The failure to file such a report shall not be a violation of this chapter. However, if the person failing to file such report is the only one suffering loss from such use or application of a pesticide by a pesticide applicator or operator, the director may refuse to act upon the complaint. [1991 c 263 § 1; 1989 c 380 § 51; 1961 c 249 § 19.]

**17.21.220 Application of chapter to governmental entities—Exemption—Liability.** (1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

(2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any pesticide restricted to use by certified applicators, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. A license fee of fifteen dollars shall be paid before a public operator license may be issued. The license fee shall not apply to public operators licensed and working in the health vector field. Public operator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses. The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides not restricted to use by certified applicators to control pests other than weeds.

(4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred. [1991 c 109 § 37; 1989 c 380 § 53; 1986 c 203 § 11; 1981 c 297 § 24; 1971 ex.s. c 191 § 7; 1967 c 177 § 13; 1961 c 249 § 22.]

**Severability—1986 c 203:** See note following RCW 15.04.100.

**Severability—1981 c 297:** See note following RCW 15.36.110.  
*Surcharge:* RCW 17.21.360.

## Chapter 17.24

## INSECT PESTS AND PLANT DISEASES

## Sections

17.24.003	Purpose.
17.24.005	Repealed.
17.24.007	Definitions.
17.24.011	Regulation of plant, plant product, and bee movement.
17.24.021	Inspection and investigation.
17.24.030	Repealed.
17.24.031	Determination of origin.
17.24.035	Repealed.
17.24.041	Power to adopt quarantine measures—Rules.
17.24.051	Introduction of plant pests, noxious weeds, or organisms affecting plant life.
17.24.060	Repealed.
17.24.061	Protection of privileged or Confidential information—Procedure—Notice—Declaratory judgment.
17.24.070	Repealed.
17.24.071	Compliance agreements.
17.24.080	Repealed.
17.24.081	Prohibited acts.
17.24.091	Impound and disposition.
17.24.101	State-wide survey and control activity.
17.24.105	Repealed.
17.24.110	Repealed.
17.24.111	Director's cooperation with other agencies.
17.24.120	Repealed.
17.24.121	Acquisition of lands, water supply, or other properties for quarantine locations.
17.24.130	Repealed.
17.24.131	Requested inspections—Fee for service.
17.24.140	Repealed.
17.24.141	Penalties—Criminal and civil penalty.
17.24.151	Violations—Costs of control.
17.24.161	Funds for technical and scientific services.
17.24.171	Determination of imminent danger of infestation of plant pests or plant diseases—Emergency measures—Conditions—Procedures.
17.24.200	Repealed.
17.24.900	Captions not law—1991 c 257.

**17.24.003 Purpose.** The purpose of this chapter is to provide a strong system for the exclusion of plant and bee pests and diseases through regulation of movement and quarantines of infested areas to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state; plants and shrubs within the state; and the environment of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and the public and private costs that result when these infestations become established. [1991 c 257 § 3.]

**17.24.005 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

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

(1) "Department" means the state department of agriculture.

(2) "Director" means the director of the state department of agriculture or the director's designee.

(3) "Quarantine" means a rule issued by the department that prohibits or regulates the movement of articles, bees, plants, or plant products from designated quarantine areas within or outside the state to prevent

the spread of disease, plant pathogens, or pests to nonquarantine areas.

(4) "Plant pest" means a living stage of an insect, mite, nematode, slug, snail, or protozoa, or other invertebrate animal, bacteria, fungus, or parasitic plant, or their reproductive parts, or viruses, or an organism similar to or allied with any of the foregoing plant pests, including a genetically engineered organism, or an infectious substance that can directly or indirectly injure or cause disease or damage in plants or parts of plants or in processed, manufactured, or other products of plants.

(5) "Plants and plant products" means trees, shrubs, vines, forage, and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from the plants and plant products.

(6) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of this chapter. The term "certificate" includes labels, rubber stamp imprints, tags, permits, written statements, or a form of inspection and certification document that accompanies the movement of inspected and certified plant material and plant products, or bees, bee hives, or beekeeping equipment.

(7) "Compliance agreement" means a written agreement between the department and a person engaged in growing, handling, or moving articles, plants, plant products, or bees, bee hives, or beekeeping equipment regulated under this chapter, in which the person agrees to comply with stipulated requirements.

(8) "Distribution" means the movement of a regulated article from the property where it is grown or kept, to property that is not contiguous to the property, regardless of the ownership of the properties.

(9) "Genetically engineered organism" means an organism altered or produced through genetic modification from a donor, vector, or recipient organism using recombinant DNA techniques, excluding those organisms covered by the food, drug and cosmetic act (21 U.S.C. Secs. 301–392).

(10) "Person" means a natural person, individual, firm, partnership, corporation, company, society, or association, and every officer, agent, or employee of any of these entities.

(11) "Sell" means to sell, to hold for sale, offer for sale, handle, or to use as inducement for the sale of another article or product.

(12) "Noxious weed" means a living stage, including, but not limited to, seeds and reproductive parts, of a parasitic or other plant of a kind that presents a threat to Washington agriculture or environment.

(13) "Regulated article" means a plant or plant product, bees or beekeeping equipment, noxious weed or other articles or equipment capable of harboring or transporting plant or bee pests or noxious weeds that is specifically addressed in rules or quarantines adopted under this chapter.

(14) "Owner" means the person having legal ownership, possession, or control over a regulated article covered by this chapter including, but not limited to, the owner, shipper, consignee, or their agent.

(15) "Nuisance" means a plant, or plant part, apiary, or property found in a commercial area on which is found a pest, pathogen, or disease that is a source of infestation to other properties.

(16) "Bees" means honey producing insects of the species *apis mellifera* and includes the adults, eggs, larvae, pupae, and other immature stages of *apis mellifera*.

(17) "Bee pests" means a mite, other parasite, or disease that causes injury to bees.

(18) "Biological control" means the use by humans of living organisms to control or suppress undesirable animals and plants; the action of parasites, predators, or pathogens on a host or prey population to produce a lower general equilibrium than would prevail in the absence of these agents.

(19) "Biological control agent" means a parasite, predator, or pathogen intentionally released, by humans, into a target host or prey population with the intent of causing population reduction of that host or prey.

(20) "Emergency" means a situation where there is an imminent danger of an infestation of plant pests or disease that seriously threatens the state's agricultural or horticultural industries or environment and that cannot be adequately addressed with normal procedures or existing resources. [1991 c 257 § 4.]

**17.24.011 Regulation of plant, plant product, and bee movement.** Notwithstanding the provisions of RCW 17.24.041, the director may:

(1) Make rules under which plants, plant products, bees, hives and beekeeping equipment, and noxious weeds may be brought into this state from other states, territories, or foreign countries; and

(2) Make rules with reference to plants, plant products, bees, bee hives and equipment, and genetically engineered organisms while in transit through this state as may be deemed necessary to prevent the introduction into and dissemination within this state of plant and bee pests and noxious weeds. [1991 c 257 § 5.]

**17.24.021 Inspection and investigation.** (1) The director may intercept and hold or order held for inspection, or cause to be inspected while in transit or after arrival at their destination, all plants, plant products, bees, or other articles likely to carry plant pests, bee pests, or noxious weeds being moved into this state from another state, territory, or a foreign country or within or through this state for plant and bee pests and disease.

(2) The director may enter upon public and private premises at reasonable times for the purpose of carrying out this chapter. If the director be denied access, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises. The court may upon such application issue the search warrant for the purposes requested.

(3) The director may adopt rules in accordance with chapter 34.05 RCW as may be necessary to carry out the purposes and provisions of this chapter. [1991 c 257 § 6.]

**17.24.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.031 Determination of origin.** The director may demand of a person who has in his or her possession or under his or her control, plants, bees, plant products, or other articles that may carry plant pests, bee pests, or noxious weeds, full information as to the origin and source of these items. Failure to provide that information, if known, may subject the person to a civil penalty. [1991 c 257 § 7.]

**17.24.035 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.041 Power to adopt quarantine measures—Rules.** If determined to be necessary to protect the forest, agricultural, horticultural, floricultural, beekeeping, or environmental interests of this state, the director may declare a quarantine against an area, place, nursery, orchard, vineyard, apiary, or other agricultural establishment, county or counties within the state, or against other states, territories, or foreign countries, or a portion of these areas, in reference to plant pests, or bee pests, or noxious weeds, or genetically engineered plant or plant pest organisms. The director may prohibit the movement of all regulated articles from such quarantined places or areas that are likely to contain such plant pests or noxious weeds or genetically engineered plant, plant pest, or bee pest organisms. The quarantine may be made absolute or rules may be adopted prescribing the conditions under which the regulated articles may be moved into, or sold, or otherwise disposed of in the state. [1991 c 257 § 8.]

**17.24.051 Introduction of plant pests, noxious weeds, or organisms affecting plant life.** The introduction into or release within the state of a plant pest, noxious weeds, bee pest, or any other organism that may directly or indirectly affect the plant life of the state as an injurious pest, parasite, predator, or other organism is prohibited, except under special permit issued by the department under rules adopted by the director. A special permit is not required for the introduction or release within the state of a genetically engineered plant or plant pest organism if the introduction or release has been approved under provisions of federal law and the department has been notified of the planned introduction or release. The department shall be the sole issuing agency for the permits. Except for research projects approved by the department, no permit for a biological control agent shall be issued unless the department has determined that the parasite, predator, or plant pathogen is target organism or plant specific and not likely to become a pest of non-target plants or other beneficial organisms. The director may also exclude biological control agents that are infested with parasites determined to be detrimental to the biological control efforts of the state. The department may rely upon findings of the United States department

of agriculture or any experts that the director may deem appropriate in making a determination about the threat posed by such organisms. In addition, the director may request confidential business information subject to the conditions in RCW 17.24.061.

Plant pests, noxious weeds, or other organisms introduced into or released within this state in violation of this section shall be subject to detention and disposition as otherwise provided in this chapter. [1991 c 257 § 9.]

**17.24.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.061 Protection of privileged or Confidential information—Procedure—Notice—Declaratory judgment.** (1) In submitting data required by this chapter, the applicant may: (a) Mark clearly portions of data which in his or her opinion are trade secrets or commercial or financial information; and (b) submit the marked material separately from other material required to be submitted under this chapter.

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make information submitted by an applicant or registrant under this chapter available to the public if, in the judgment of the director, the information is privileged or confidential because it contains or relates to trade secrets or commercial or financial information. Where necessary to carry out the provisions of this chapter, information relating to unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director.

(3) If the director proposes to release for inspection or to reveal at a public hearing or in findings of fact issued by the director, information that the applicant or registrant believes to be protected from disclosure under subsection (2) of this section, he or she shall notify the applicant or registrant in writing, by certified mail. The director may not make this data available for inspection nor reveal the information at a public hearing or in findings of fact issued by the director until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may withdraw the application or may institute an action in the superior court of Thurston county for a declaratory judgment as to whether the information is subject to protection under subsection (2) of this section. [1991 c 257 § 10.]

**17.24.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.071 Compliance agreements.** The director may enter into compliance agreements with a person engaged in growing, handling, or moving articles, bees, plants, or plant products regulated under this chapter. [1991 c 257 § 11.]

**17.24.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.081 Prohibited acts.** It shall be unlawful for a person to:

(1) Sell, offer for sale, or distribute a noxious weed or a plant or plant product or regulated article infested or infected with a plant pest declared by rule to be a threat to the state's forest, agricultural, horticultural, floricultural, or beekeeping industries or environment;

(2) Knowingly receive a noxious weed, or a plant, plant product, bees, bee hive or appliances, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment within this state, in violation of the provisions of this chapter or the rules adopted under this chapter;

(3) Fail to immediately notify the department and isolate and hold the noxious weed, bees, bee hives or appliances, plants or plant products, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department, where the item has been received without knowledge of the violation and the receiver has become subsequently aware of the potential problem;

(4) Knowingly conceal or willfully withhold available information regarding an infected or infested plant, plant product, regulated article, or noxious weed;

(5) Introduce or move into this state, or to move or dispose of in this state, a plant, plant product, or other item included in a quarantine, except under rules as may be prescribed by the department, after a quarantine order has been adopted under this chapter against a place, nursery, orchard, vineyard, apiary, other agricultural establishment, county of this state, another state, territory, or a foreign country as to a plant pest, bee pest, or noxious weed or genetically engineered plant or plant pest organism, until such quarantine is removed. [1991 c 257 § 12.]

**17.24.091 Impound and disposition.** (1) If upon inspection, the director finds that an inspected plant or plant product or bees are infected or infested or that a regulated article is being held or transported in violation of a rule or quarantine of the department, the director shall notify the owner that a violation of this chapter exists. The director may impound or order the impounding of the infected or infested or regulated article in such a manner as may be necessary to prevent the threat of infestation. The notice shall be in writing and sent by certified mail or personal service identifying the impounded article and giving notice that the articles will be treated, returned to the shipper or to a quarantined area, or destroyed in a manner as to prevent infestation. The impounded article shall not be destroyed unless the director determines that (a) no effective treatment can be carried out; and (b) the impounded article cannot be returned to the shipper or shipped back to a quarantine area without threat of infestation to this state; and (c) mere possession by the owner constitutes an emergency.

(2) Before taking action to treat, return, or destroy the impounded article, the director shall notify the owner of the owner's right to a hearing before the director under chapter 34.05 RCW. Within ten days after the notice has been given the owner may request a hearing. The request must be in writing.

(3) The cost to impound articles along with the cost, if any, to treat, return, or destroy the articles shall be at the owner's expense. The owner is not entitled to compensation for infested or infected articles destroyed by the department under this section. [1991 c 257 § 13.]

**17.24.101 State-wide survey and control activity.** If there is reason to believe that a plant or bee pest may adversely impact the forestry, agricultural, horticultural, floricultural, or related industries of the state; or may cause harm to the environment of the state; or such information is needed to facilitate or allow the movement of forestry, agricultural, horticultural, or related products to out-of-state, foreign and domestic markets, the director may conduct, or cause to be conducted, surveys to determine the presence, absence, or distribution of a pest.

The director may take such measures as may be required to control or eradicate such pests where such measures are determined to be in the public interest, are technically feasible, and for which funds are appropriated or provided through cooperative agreements. [1991 c 257 § 14.]

**17.24.105 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.111 Director's cooperation with other agencies.** The director may enter into cooperative arrangements with a person, municipality, county, Washington State University or any of its experiment stations, or other agencies of this state, and with boards, officers, and authorities of other states and the United States, including the United States department of agriculture, for the inspection of bees, plants and plant parts and products and the control or eradication of plant pests, bee pests, or noxious weeds and to carry out other provisions of this chapter. [1991 c 257 § 15.]

**17.24.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.121 Acquisition of lands, water supply, or other properties for quarantine locations.** The director may acquire, in fee or in trust, by gift, or whenever funds are appropriated for such purposes, by purchase, easement, lease, or condemnation, lands or other property, water supplies, as may be deemed necessary for use by the department for establishing quarantine stations for the

purpose of the isolation, prevention, eradication, elimination, and control of insect pests or plant pathogens that affect the agricultural or horticultural products of the state; for the propagation of biological control agents; or the isolation of genetically engineered plants or plant pests; or the isolation of bee pests. [1991 c 257 § 16.]

**17.24.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.131 Requested inspections—Fee for service.** To facilitate the movement or sale of forest, agricultural, floricultural, horticultural and related products, or bees and related products, the director may provide, if requested by farmers, growers, or other interested persons, special inspections, pest identifications, plant identifications, plant diagnostic services, other special certifications and activities not otherwise authorized by statute and to prescribe a fee for that service. The fee shall, as closely as practical, cover the cost of the service rendered, including the salaries and expenses of the personnel involved. Moneys collected shall be deposited in the plant pest account, which is hereby created within the agricultural local fund. No appropriation is required for disbursement from the plant pest account to provide the services authorized by this section. [1991 c 257 § 17.]

**17.24.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.141 Penalties—Criminal and civil penalty.** Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to RCW 17.24.100, the director may impose upon and collect from the violator a civil penalty not exceeding five thousand dollars per violation. Each violation shall be a separate and distinct offense. A person who knowingly, through an act of commission or omission, procures or aids or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty. [1991 c 257 § 18.]

**17.24.151 Violations—Costs of control.** A person who, through a knowing and willful violation of a quarantine established under this chapter, causes an infestation to become established, may be required to pay the costs of public control or eradication measures caused as a result of that violation. [1991 c 257 § 19.]

**17.24.161 Funds for technical and scientific services.** The director may, at the director's discretion, provide funds for technical or scientific services, labor, materials and supplies, and biological control agents for the control of plant pests, bee pests, and noxious weeds. [1991 c 257 § 20.]

**17.24.171 Determination of imminent danger of infestation of plant pests or plant diseases—Emergency**

**measures—Conditions—Procedures.** (1) If the director determines that there exists an imminent danger of an infestation of plant pests or plant diseases that seriously endangers the agricultural or horticultural industries of the state, or that seriously threatens life, health, or economic well-being, the director shall request the governor to order emergency measures to control the pests or plant diseases under RCW 43.06.010(14). The director's findings shall contain an evaluation of the affect of the emergency measures on public health.

(2) If an emergency is declared pursuant to RCW 43.06.010(14), the director may appoint a committee to advise the governor through the director and to review emergency measures necessary under the authority of RCW 43.06.010(14) and this section and make subsequent recommendations to the governor. The committee shall include representatives of the agricultural industries, state and local government, public health interests, technical service providers, and environmental organizations.

(3) Upon the order of the governor of the use of emergency measures, the director is authorized to implement the emergency measures to prevent, control, or eradicate plant pests or plant diseases that are the subject of the emergency order. Such measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides.

(4) Upon the order of the governor of the use of emergency measures, the director is authorized to enter into agreements with individuals or companies, or both, to accomplish the prevention, control, or eradication of plant pests or plant diseases, notwithstanding the provisions of chapter 15.58 or 17.21 RCW, or any other statute.

(5) The director shall continually evaluate the emergency measures taken and report to the governor at intervals of not less than ten days. The director shall immediately advise the governor if he or she finds that the emergency no longer exists or if certain emergency measures should be discontinued. [1991 c 257 § 21.]

**17.24.200 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**17.24.900 Captions not law—1991 c 257.** Captions as used in RCW 17.24.005 through 17.24.171 constitute no part of the law. [1991 c 257 § 24.]

### Chapter 17.28

#### MOSQUITO CONTROL DISTRICTS

##### Sections

17.28.175	Control of mosquitos—Declaration that owner is responsible.
17.28.185	Control of mosquitos—Noncompliance by landowner with regulations.

**17.28.175 Control of mosquitos—Declaration that owner is responsible.** A board established pursuant to

[1990-91 RCW Supp—page 180]

RCW 17.28.110 may adopt, by resolution, a policy declaring that the control of mosquitos within the district is the responsibility of the owner of the land from which the mosquitos originate. To protect the public health or welfare, the board may, in accordance with policies and standards established by the board following a public hearing, adopt a regulation requiring owners of land within the district to perform such acts as may be necessary to control mosquitos. [1990 c 300 § 2.]

**17.28.185 Control of mosquitos—Noncompliance by landowner with regulations.** (1) Whenever the board finds that the owner has not taken prompt and sufficient action to comply with regulations adopted pursuant to RCW 17.28.175 to control mosquitos originating from the owner's land, the board shall notify the owner that a violation of this chapter exists. The notice shall be in writing and sent by certified mail, or served by personal service. The notice shall provide a reasonable time period for action to be taken to control mosquitos. If the board deems that a public nuisance or threat to public health or welfare caused by the mosquito infestation is sufficiently severe, it may require immediate control action to be taken within forty-eight hours following the time that notification is reasonably expected to have been received by the owner or agent by certified mail or personal service.

(2) If the owner does not take sufficient action to control mosquitos in accordance with the notice, the board may control them, or cause their being controlled, at the expense of the owner. The amount of such expense shall constitute a lien against the property and may be enforced by proceedings on such lien. The owner shall be liable for payment of the expenses, and nothing in this chapter shall be construed to prevent collection of any judgment on account thereof by any means available pursuant to law, in substitution for enforcement of the lien. Necessary costs and expenses, including reasonable attorneys' fees, incurred by the board in carrying out this section, may be recovered at the same time, as a part of the action filed under this section. The venue in proceedings for reimbursement of expenses brought pursuant to this section, including those involving governmental entities, shall be the county in which the real property that is the subject of the action is situated. [1990 c 300 § 3.]

## Title 18

### BUSINESSES AND PROFESSIONS

#### Chapters

<b>18.04</b>	<b>Accountancy.</b>
<b>18.06</b>	<b>Acupuncture.</b>
<b>18.08</b>	<b>Architects.</b>
<b>18.16</b>	<b>Cosmetologists, barbers, and manicurists.</b>
<b>18.19</b>	<b>Counselors.</b>
<b>18.20</b>	<b>Boarding homes.</b>
<b>18.22</b>	<b>Podiatric medicine and surgery.</b>
<b>18.25</b>	<b>Chiropractic.</b>

- 18.26 Chiropractic disciplinary board.
- 18.27 Registration of contractors.
- 18.29 Dental hygienist.
- 18.32 Dentistry.
- 18.34 Dispensing opticians.
- 18.35 Hearing aids.
- 18.36A Naturopathy.
- 18.43 Engineers and land surveyors.
- 18.44 Escrow agent registration act.
- 18.46 Maternity homes.
- 18.50 Midwifery.
- 18.51 Nursing homes.
- 18.52 Nursing home administrators.
- 18.52A Nursing homes—Nursing assistants training program.
- 18.52B Nursing assistants.
- 18.52C Nursing pools.
- 18.53 Optometry.
- 18.54 Optometry board.
- 18.55 Ocularists.
- 18.57 Osteopathy—Osteopathic medicine and surgery.
- 18.57A Osteopathic physicians' assistants.
- 18.59 Occupational therapy.
- 18.64 Pharmacists.
- 18.64A Pharmacy assistants.
- 18.71 Physicians.
- 18.71A Physician assistants.
- 18.72 Medical disciplinary board.
- 18.73 Emergency medical care and transportation services.
- 18.74 Physical therapy.
- 18.76 Poison information centers.
- 18.78 Practical nurses.
- 18.83 Psychologists.
- 18.84 Radiologic technologists.
- 18.85 Real estate brokers and salespersons.
- 18.88 Registered nurses.
- 18.88A Nursing assistants.
- 18.89 Respiratory care practitioners.
- 18.92 Veterinary medicine, surgery and dentistry.
- 18.100 Professional service corporations.
- 18.104 Water well construction.
- 18.108 Massage practitioners.
- 18.118 Regulation of business professions.
- 18.120 Regulation of health professions—Criteria.
- 18.122 Regulation of health professions—Uniform administrative provisions.
- 18.130 Regulation of health professions—Uniform disciplinary act.
- 18.135 Health care assistants.
- 18.138 Dietitians and nutritionists.
- 18.150 Health professional loan repayment program.
- 18.155 Sex offender treatment providers.
- 18.160 Fire sprinkler system contractors.
- 18.165 Private detectives.
- 18.170 Security guards.
- 18.175 Athlete agents.

## Chapter 18.04 ACCOUNTANCY

### Sections

- 18.04.105 Issuance of certificate—Requirements—Examination—Fees—Certified public accountants' account—Prior licensees—Continuing professional education.

**18.04.105 Issuance of certificate—Requirements—Examination—Fees—Certified public accountants' account—Prior licensees—Continuing professional education.** (1) The certificate of "certified public accountant" shall be granted by the board to any person:

(a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;

(b) Who has met such educational standards established by rule as the board determines to be appropriate; and

(c) Who has passed a written examination in accounting, auditing, and related subjects the board determines to be appropriate.

(2) The examination described in subsection (1)(c) of this section shall be held by the board and shall take place as often as the board determines to be desirable, but at least once a year. The board may use all or any part of the examination or grading service of the American Institute of Certified Public Accountants or National Association of State Boards of Accountancy to assist it in performing its duties under this chapter.

(3) The board may, by rule, provide for granting credit to a person for satisfactory completion of a written examination in any one or more of the subjects specified in subsection (1)(c) of this section given by the licensing authority in any other state. These rules shall include requirements the board determines to be appropriate in order that any examination approved as a basis for any credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time credit is granted.

(4) The board may, by rule, prescribe the terms and conditions under which a person who passes the examination in one or more of the subjects indicated in subsection (1)(c) of this section may be reexamined in only the remaining subjects, giving credit for the subjects previously passed. It may also provide by rule for a reasonable waiting period for a person's reexamination in a subject he or she has failed. A person is entitled to any number of reexaminations, subject to this subsection and any other rules adopted by the board.

(5) A person passing the examination in any one or more subjects specified in subsection (1)(c) of this section shall meet the educational requirements of subsection (1)(b) of this section in effect on the date the person successfully completes the requirements of subsection (1)(c) of this section. The board may provide, by rule, for exceptions to prevent what it determines to be undue hardship to applicants.

(6) The board shall charge each applicant an examination fee for the initial examination under subsection (1) of this section, or for reexamination under subsection (4) of this section for each subject in which the applicant is reexamined. The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There is established in the state treasury an account to be known as the certified public accountants' account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be used only for costs related to the examination.

(7) Persons who on June 30, 1986, held certified public accountant certificates previously issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to this chapter. Certificates previously issued shall, for all purposes, be considered certificates issued under this chapter and subject to its provisions.

(8) Persons who held qualifications as licensed public accountants but who do not hold annual permits to practice on July 1, 1983, are not entitled to engage in the practice of public accounting under this chapter. No person shall use the term "licensed public accountant" or the designation "LPA."

(9) A certificate of a "certified public accountant" under this chapter is issued on a biennial basis with renewal subject to requirements of continuing professional education and payment of fees, prescribed by the board.

(10) The board shall adopt rules providing for continuing professional education for certified public accountants. The rules shall:

(a) Provide that a certified public accountant holding a certificate on July 1, 1986, shall verify to the board that he or she has completed at least ten days or an accumulation of eighty hours of continuing professional education during the last two-year period to maintain the certificate;

(b) Establish continuing professional education requirements;

(c) Establish when newly certificated public accountants shall verify that they have completed the required continuing professional education; and

(d) Establish proceedings for revocation, suspension, and reinstatement of certificates for failure to meet the continuing professional education requirement.

(11) Failure to furnish verification of the completion of the continuing professional education requirement constitutes grounds for revocation, suspension, or failure to renew the certificate, unless the board determines that

the failure was due to reasonable cause or excusable neglect. [1991 1st sp.s. c 13 § 20; 1986 c 295 § 6; 1985 c 57 § 3; 1983 c 234 § 7.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 57 § 91.]

**Chapter 18.06  
ACUPUNCTURE**

Sections	
18.06.010	Definitions. (Effective until June 30, 1993.)
18.06.010	Repealed. (Effective June 30, 1993.)
18.06.020	Practice without certification unlawful. (Effective until June 30, 1993.)
18.06.020	Repealed. (Effective June 30, 1993.)
18.06.030	Authority to practice irrespective of other licensing laws—Exemptions for educational purposes. (Effective until June 30, 1993.)
18.06.030	Repealed. (Effective June 30, 1993.)
18.06.040	Repealed. (Effective June 30, 1993.)
18.06.050	Applications for examination—Qualifications. (Effective until June 30, 1993.)
18.06.050	Repealed. (Effective June 30, 1993.)
18.06.060	Approval of educational programs. (Effective until June 30, 1993.)
18.06.060	Repealed. (Effective June 30, 1993.)
18.06.070	Approval of applications—Examination fee. (Effective until June 30, 1993.)
18.06.070	Repealed. (Effective June 30, 1993.)
18.06.080	Authority of secretary—Examination—Contents. (Effective until June 30, 1993.)
18.06.080	Repealed. (Effective June 30, 1993.)
18.06.090	Repealed. (Effective June 30, 1993.)
18.06.100	Repealed. (Effective June 30, 1993.)
18.06.110	Application of uniform disciplinary act. (Effective until June 30, 1993.)
18.06.110	Repealed. (Effective June 30, 1993.)
18.06.120	Annual registration—Renewal—Fee—Lapse. (Effective until June 30, 1993.)
18.06.120	Repealed. (Effective June 30, 1993.)
18.06.130	Patient information form. (Effective until June 30, 1993.)
18.06.130	Repealed. (Effective June 30, 1993.)
18.06.140	Consultation and referral to other health care practitioners. (Effective until June 30, 1993.)
18.06.140	Repealed. (Effective June 30, 1993.)
18.06.150	Repealed. (Effective June 30, 1993.)
18.06.160	Adoption of rules. (Effective until June 30, 1993.)
18.06.160	Repealed. (Effective June 30, 1993.)
18.06.170	Acupuncture advisory committee. (Effective until June 30, 1993.)
18.06.170	Repealed. (Effective June 30, 1993.)
18.06.180	Application of chapter to previously registered acupuncture assistants. (Effective until June 30, 1993.)
18.06.180	Repealed. (Effective June 30, 1993.)
18.06.190	Licensure by endorsement. (Effective until June 30, 1993.)
18.06.190	Repealed. (Effective June 30, 1993.)
18.06.200	Repealed. (Effective June 30, 1993.)
18.06.210	Repealed. (Effective June 30, 1993.)
18.06.900	Repealed.
18.06.901	Repealed.
18.06.910	Regulation of acupuncture practice—Termination.
18.06.911	Regulation of acupuncture practice—Repeal.

**18.06.010 Definitions. (Effective until June 30, 1993.)** The following terms in this chapter shall have the

meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Acupuncture" means a health care service based on a traditional Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians. Acupuncture includes but is not necessarily limited to the following techniques:

- (a) Use of acupuncture needles to stimulate acupuncture points and meridians;
  - (b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;
  - (c) Moxibustion;
  - (d) Acupressure;
  - (e) Cupping;
  - (f) Dermal friction technique (gwa hsa);
  - (g) Infra-red;
  - (h) Sonopuncture;
  - (i) Laserpuncture;
  - (j) Dietary advice based on traditional Chinese medical theory; and
  - (k) Point injection therapy (aquapuncture).
- (2) "Acupuncturist" means a person certified under this chapter.
- (3) "Department" means the department of health.
- (4) "Secretary" means the secretary of health or the secretary's designee. [1991 c 3 § 4; 1985 c 326 § 1.]

**18.06.010 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.020 Practice without certification unlawful. (Effective until June 30, 1993.)** (1) No one may hold themselves out to the public as an acupuncturist or certified acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or certified acupuncturist unless certified as provided for in this chapter.

(2) No one may use any configuration of letters after their name (including Ac.) which indicates a degree or formal training in acupuncture unless certified as provided for in this chapter.

(3) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is certified under this chapter. [1991 c 3 § 5; 1985 c 326 § 2.]

**18.06.020 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.030 Authority to practice irrespective of other licensing laws—Exemptions for educational purposes. (Effective until June 30, 1993.)** Any person certified as provided for in this chapter may practice acupuncture irrespective of any other occupational licensing law. This authorization also extends to:

(1) The practice of acupuncture by a person who is a regular student in a school of acupuncture approved by the secretary: PROVIDED, HOWEVER, That the performance of such services be pursuant only to a regular course of instruction or assignments from his or her instructor and that such services are performed only under the direct supervision and control of a person certified pursuant to this chapter or licensed under any other healing art whose scope of practice includes acupuncture; and

(2) The practice of acupuncture by any person licensed or certified to perform acupuncture in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by the secretary or in an educational seminar sponsored by a professional organization of acupuncture: PROVIDED, That in the latter case, the practice is supervised directly by a person certified pursuant to this chapter or licensed under any other healing art whose scope of practice includes acupuncture. [1991 c 3 § 6; 1985 c 326 § 3.]

**18.06.030 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.040 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.050 Applications for examination—Qualifications. (Effective until June 30, 1993.)** Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and acupuncture over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, bacteriology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed a course, approved by the secretary, of clinical training in acupuncture over a minimum period of one academic year. The training shall include a minimum of: (i) Twenty-nine quarter credits of supervised practice, consisting of at least four hundred separate patient treatments involving a minimum of one hundred different patients, and (ii) one hundred hours or nine quarter credits of observation which shall

include case presentation and discussion. [1991 c 3 § 7; 1987 c 447 § 15; 1985 c 326 § 5.]

Severability—1987 c 447: See RCW 18.36A.901.

**18.06.050 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.060 Approval of educational programs.** (Effective until June 30, 1993.) The department shall consider for approval any school, program, apprenticeship, or tutorial which meets the requirements outlined in this chapter and provides the training required under RCW 18.06.050. Clinical and didactic training may be approved as separate programs or as a joint program. The process for approval shall be established by the secretary by rule. [1991 c 3 § 8; 1985 c 326 § 6.]

**18.06.060 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.070 Approval of applications—Examination fee.** (Effective until June 30, 1993.) No applicant may be permitted to take an examination under this chapter until the secretary has approved his or her application and the applicant has paid an examination fee as prescribed under RCW 43.70.250. The examination fee shall accompany the application. [1991 c 3 § 9; 1985 c 326 § 7.]

**18.06.070 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.080 Authority of secretary—Examination—Contents.** (Effective until June 30, 1993.) (1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in acupuncture at least twice a year at such times and places as the secretary may select. The examination shall be a written examination in English and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by certified acupuncturists and shall include but not necessarily be limited to anatomy, physiology, bacteriology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of Certified Acupuncturist. [1991 c 3 § 10; 1985 c 326 § 8.]

**18.06.080 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.090 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.100 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.110 Application of uniform disciplinary act.** (Effective until June 30, 1993.) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 11; 1987 c 150 § 9; 1985 c 326 § 11.]

Severability—1987 c 150: See RCW 18.122.901.

**18.06.110 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.120 Annual registration—Renewal—Fee—Lapse.** (Effective until June 30, 1993.) (1) Every person certified in acupuncture shall register with the secretary annually and pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250 on or before the certificate holder's birth anniversary date. The certificate of the person shall be renewed for a period of one year or longer in the discretion of the secretary.

(2) Any failure to register and pay the annual renewal registration fee shall render the certificate invalid. The certificate shall be reinstated upon: (a) Written application to the secretary; (b) payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250; and (c) payment to the state of all delinquent annual certificate renewal fees.

(3) Any person who fails to renew his or her certification for a period of three years shall not be entitled to renew such certification under this section. Such person, in order to obtain a certification in acupuncture in this state, shall file a new application under this chapter, along with the required fee, and shall meet examination or continuing education requirements as the secretary, by rule, provides.

(4) All fees collected under this section and \*RCW 18.06.060 shall be credited to the health professions account as required under RCW 43.70.320. [1991 c 3 § 12; 1985 c 326 § 12.]

\*Reviser's note: RCW 18.06.070 was apparently intended.

**18.06.120 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.130 Patient information form.** (Effective until June 30, 1993.) The secretary shall develop a form to be used by an acupuncturist to inform the patient of the acupuncturist's scope of practice and qualifications. All certificate holders shall bring the form to the attention

of the patients in whatever manner the secretary, by rule, provides. [1991 c 3 § 13; 1985 c 326 § 13.]

**18.06.130 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.140 Consultation and referral to other health care practitioners.** (Effective until June 30, 1993.) Every certified acupuncturist shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for certification as well as annually thereafter with the certificate renewal fee to the department. The department may withhold certification or renewal of certification if the plan fails to meet the standards contained in rules promulgated by the secretary.

When the acupuncturist sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the acupuncturist shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be continued. [1991 c 3 § 14; 1985 c 326 § 14.]

**18.06.140 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.150 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.160 Adoption of rules.** (Effective until June 30, 1993.) The secretary shall adopt rules in the manner provided by chapter 34.05 RCW as are necessary to carry out the purposes of this chapter. [1991 c 3 § 15; 1985 c 326 § 16.]

**18.06.160 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.170 Acupuncture advisory committee.** (Effective until June 30, 1993.) (1) The acupuncture advisory committee is created. The committee shall be composed of one physician licensed under chapter 18.71 or 18.57 RCW, three acupuncturists certified under this chapter, and one public member, who does not have any financial interest in the rendering of health services.

(2) The secretary shall appoint members to staggered terms so as to provide continuity in membership. Members shall serve at the pleasure of the secretary but may not serve more than five years total. Members of the

committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) Each member of the committee shall receive fifty dollars for each day the member attends an official meeting of the group or performs statutorily prescribed duties approved by the secretary.

(4) The committee shall meet only on the request of the secretary and consider only those matters referred to it by the secretary. [1991 c 3 § 16; 1985 c 326 § 17.]

**18.06.170 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.180 Application of chapter to previously registered acupuncture assistants.** (Effective until June 30, 1993.) All persons registered as acupuncture assistants pursuant to chapter 18.71A or 18.57A RCW on July 28, 1985, shall be certified under this chapter by the secretary without examination if they otherwise would qualify for certification under this chapter and apply for certification within one hundred twenty days of July 28, 1985. [1991 c 3 § 17; 1985 c 326 § 18.]

**18.06.180 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.190 Licensure by endorsement.** (Effective until June 30, 1993.) The secretary may certify a person without examination if such person is licensed or certified as an acupuncturist in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state. [1991 c 3 § 18; 1985 c 326 § 19.]

**18.06.190 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.200 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.210 Repealed.** (Effective June 30, 1993.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.901 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.06.910 Regulation of acupuncture practice—Termination.** The regulation of acupuncture practice under this chapter shall be terminated on June 30, 1992, as provided in RCW 18.06.911. [1990 c 297 § 15.]

**18.06.911 Regulation of acupuncture practice—**  
**Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1993:

(1) Section 1, chapter 326, Laws of 1985 and RCW 18.06.010;

(2) Section 2, chapter 326, Laws of 1985 and RCW 18.06.020;

(3) Section 3, chapter 326, Laws of 1985 and RCW 18.06.030;

(4) Section 4, chapter 326, Laws of 1985 and RCW 18.06.040;

(5) Section 5, chapter 326, Laws of 1985, section 15, chapter 447, Laws of 1987 and RCW 18.06.050;

(6) Section 6, chapter 326, Laws of 1985 and RCW 18.06.060;

(7) Section 7, chapter 326, Laws of 1985 and RCW 18.06.070;

(8) Section 8, chapter 326, Laws of 1985 and RCW 18.06.080;

(9) Section 9, chapter 326, Laws of 1985 and RCW 18.06.090;

(10) Section 10, chapter 326, Laws of 1985 and RCW 18.06.100;

(11) Section 11, chapter 326, Laws of 1985, section 9, chapter 150, Laws of 1987 and RCW 18.06.110;

(12) Section 12, chapter 326, Laws of 1985 and RCW 18.06.120;

(13) Section 13, chapter 326, Laws of 1985 and RCW 18.06.130;

(14) Section 14, chapter 326, Laws of 1985 and RCW 18.06.140;

(15) Section 15, chapter 326, Laws of 1985 and RCW 18.06.150;

(16) Section 16, chapter 326, Laws of 1985 and RCW 18.06.160;

(17) Section 17, chapter 326, Laws of 1985 and RCW 18.06.170;

(18) Section 18, chapter 326, Laws of 1985 and RCW 18.06.180;

(19) Section 19, chapter 326, Laws of 1985 and RCW 18.06.190;

(20) Section 20, chapter 326, Laws of 1985 and RCW 18.06.200; and

(21) Section 21, chapter 326, Laws of 1985 and RCW 18.06.210. [1990 c 297 § 16.]

## Chapter 18.08 ARCHITECTS

### Sections

18.08.240	Architects' license account.
18.08.420	Organization as corporation or joint stock association—Procedure—Requirements.

**18.08.240 Architects' license account.** There is established in the state treasury the architects' license account, into which all fees paid pursuant to this chapter shall be paid. [1991 1st sp.s. c 13 § 2; 1985 c 57 § 4; 1959 c 323 § 15.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**18.08.420 Organization as corporation or joint stock association—Procedure—Requirements.** (1) An architect or architects may organize a corporation formed either as a business corporation under the provisions of Title 23B RCW or as a professional corporation under the provisions of chapter 18.100 RCW. For an architect or architects to practice architecture through a corporation or joint stock association organized by any person under Title 23B RCW, the corporation or joint stock association shall file with the board:

(a) The application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the corporation is qualified under this chapter to practice architecture in this state;

(b) Its notices of incorporation and bylaws and a certified copy of a resolution of the board of directors of the corporation that designates individuals registered under this chapter as responsible for the practice of architecture by the corporation in this state and that provides that full authority to make all final architectural decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the individuals designated in the resolution. The filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract; and

(c) A designation in writing setting forth the name or names of the person or persons registered under this chapter who are responsible for the architecture of the firm. If there is a change in the person or persons responsible for the architecture of the firm, the changes shall be designated in writing and filed with the board within thirty days after the effective date of the changes.

(2) Upon the filing with the board of the application for certificate of authorization, the certified copy of the resolution, and the information specified in subsection (1) of this section, the board shall authorize the director to issue to the corporation a certificate of authorization to practice architecture in this state upon a determination by the board that:

(a) The bylaws of the corporation contain provisions that all architectural decisions pertaining to any project or architectural activities in this state shall be made by the specified architects responsible for the project or architectural activities, or other responsible architects under the direction or supervision of the architects responsible for the project or architectural activities;

(b) The applicant corporation has the ability to provide, through qualified personnel, professional services or creative work requiring architectural experience, and with respect to the architectural services that the corporation undertakes or offers to undertake, the personnel have the ability to apply special knowledge to the professional services or creative work such as consultation, investigation, evaluation, planning, design, and administration of the construction contract in connection with

any public or private structures, buildings, equipment, processes, works, or projects;

(c) The application for certificate of authorization contains the professional records of the designated person or persons who are responsible;

(d) The application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural services during the preceding five-year period;

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

(f) The applicant corporation is possessed of the ability and competence to furnish architectural services in the public interest.

(3) Upon recommendation of the board, the director shall refuse to issue or may suspend or revoke a certificate of authorization to a corporation if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of the corporation have committed an act prohibited under RCW 18.08.440 or have been found personally responsible for misconduct under subsection (6) or (7) of this section.

(4) In the event a corporation, organized solely by a group of architects each registered under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to that corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in subsections (1) and (2) of this section. In the event the ownership of such corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners if exclusively architects, under the qualifications required by subsections (1) and (2) of this section.

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

(6) Any corporation that has been certified under this chapter and has engaged in the practice of architecture shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board finds that the corporation has committed misconduct or malpractice under RCW 18.08.440. In such a case, any individual architect registered under this chapter who is involved in such misconduct is also subject to disciplinary measures provided in this chapter.

(7) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direction of the designated architects and shall be signed by and stamped with the official seal of the designated architects in the corporation authorized under this chapter.

(8) For each certificate of authorization issued under this section there shall be paid a certification fee and an annual certification renewal fee as prescribed by the director under RCW 43.24.086.

(9) This chapter shall not affect the practice of architecture as a professional service corporation under chapter 18.100 RCW. [1991 c 72 § 2; 1985 c 37 § 13.]

## Chapter 18.16 COSMETOLOGISTS, BARBERS, AND MANICURISTS

Sections	
18.16.020	Definitions.
18.16.030	Director—Powers and duties.
18.16.040	Repealed.
18.16.050	Advisory board—Members—Compensation.
18.16.060	Licenses required—Penalty—Exemptions.
18.16.090	Examinations.
18.16.100	Issuance of licenses—Requirements.
18.16.110	Issuance of licenses—Renewals—Duplicates.
18.16.120	Repealed.
18.16.130	Issuance of licenses—Persons licensed in other jurisdictions.
18.16.140	School licenses—Application—Approved security—Issuance—Changes in application information—Changes in controlling interest.
18.16.150	Schools—Compliance with chapter.
18.16.160	Schools—Claims against—Procedure.
18.16.165	Renewal of licenses issued before January 1, 1992—Examinations for students enrolled as of January 1, 1992—School curricula deadlines.
18.16.170	Expiration of licenses.
18.16.175	Salon/shop requirements—Complaints—Registration—Use of motor homes.
18.16.180	Salon/shop—Notice required.
18.16.190	Location of practice—Penalty—Placebound clients.
18.16.200	Disciplinary action—Grounds.
18.16.910	Severability—1991 c 324.

**18.16.020 Definitions.** As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Board" means the cosmetology, barbering, esthetics, and manicuring advisory board.

(2) "Director" means the director of the department of licensing or the director's designee.

(3) "The practice of cosmetology" means the practice of cutting, trimming, styling, shampooing, permanent waving, chemical relaxing or straightening, bleaching, or coloring of the hair of the face, neck, and scalp and manicuring and esthetics.

(4) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology and who has completed sixteen hundred hours of instruction at a school licensed under this chapter.

(5) "The practice of barbering" means the cutting, trimming, arranging, dressing, curling, waving and shampooing hair of the face, neck and scalp.

(6) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

(7) "Practice of manicuring" means the cleaning, shaping, or polishing of the nails of the hands or feet, and the application and removal of artificial nails.

(8) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

(9) "Practice of esthetics" means skin care of the face, neck, and hands involving hot compresses, massage, or the use of approved electrical appliances or nonabrasive chemical compounds formulated for professional application only, and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliance on another person.

(10) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(11) "Instructor–trainee" means a person who is currently licensed in this state as a cosmetologist, barber, manicurist, or esthetician, and is enrolled in an approved instructor–trainee program in a school licensed under this chapter.

(12) "School" means any establishment offering instruction in the practice of cosmetology, or barbering, or esthetics, or manicuring, or instructor–trainee to students and licensed under this chapter.

(13) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives any phase of cosmetology, barbering, esthetics or manicuring instruction with or without tuition, fee, or cost, and who does not receive any wage or commission.

(14) "Instructor–operator–cosmetology" means a person who gives instruction in the practice of cosmetology and instructor–training in a school and who has the same qualifications as a cosmetologist, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, and has passed an examination prepared or selected by the board and administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution and who is otherwise qualified shall upon application be licensed as an instructor–operator with a cosmetology endorsement.

(15) "Instructor–operator–barber" means a person who gives instruction in the practice of barbering and instructor training in a school, has the same qualifications as a barber, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, and has passed an examination prepared or selected by the board and administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution and who is otherwise qualified shall upon application be licensed as an instructor–operator with a barber endorsement.

(16) "Instructor–operator–manicure" means a person who gives instruction in the practice of manicuring and instructor training in a school, has the same qualifications as a manicurist, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, and has passed an examination prepared or selected by the board and administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution and

who is otherwise qualified shall upon application be licensed as an instructor–operator with a manicurist endorsement.

(17) "Instructor–operator–esthetics" means a person who gives instruction in the practice of esthetics and instructor training in a school, has the same qualifications as an esthetician, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, and has passed an examination prepared or selected by the board and administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution and who is otherwise qualified shall upon application be licensed as an instructor–operator with an esthetics endorsement.

(18) "Vocational student" is a person who in cooperation with any senior high, vocational technical institute, community college, or prep school, attends a cosmetology school and participates in its student course of instruction and has the same rights and duties as a student as defined in this chapter. The person must have academically completed the eleventh grade of high school. Every such vocational student shall receive credit for all creditable hours of the approved course of instruction received in the school of cosmetology upon graduation from high school. Hours shall be credited to a vocational student if the student graduates from an accredited high school or receives a certificate of educational competence.

(19) "Booth renter" means a person who performs cosmetology, barbering, esthetics, or manicuring services where the use of the salon/shop facilities is contingent upon compensation to the owner of the salon/shop facilities and the person receives no compensation or other consideration from the owner for the services performed.

(20) "Person" means any individual, partnership, professional service corporation, joint stock association, joint venture, or any other entity authorized to do business in this state.

(21) "Salon/shop" means any building, structure, or motor home or any part thereof, other than a school, where the commercial practice of cosmetology, barbering, esthetics, or manicuring is conducted.

(22) "Crossover training" means training approved by the director as training hours that may be credited to current licensees for similar training received in another profession licensed under this chapter.

(23) "Approved security" means surety bond, savings assignment, or irrevocable letter of credit.

(24) "Mobile operator" means any person possessing a valid cosmetology, barbering, manicuring, or esthetician's license that provides services in a mobile salon/shop.

(25) "Personal service operator" means any person possessing a valid cosmetology, barbering, manicuring, or esthetician's license that provides services for clients in the client's home, office, or other location that is convenient for the client. [1991 c 324 § 1; 1984 c 208 § 2.]

**18.16.030 Director—Powers and duties.** In addition to any other duties imposed by law, the director shall have the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To investigate alleged violations of this chapter and consumer complaints involving the practice of cosmetology, barbering, esthetics, or manicuring, schools offering training in these areas, and salons/shops and booth renters offering these services;

(4) To issue subpoenas, statements of charges, statements of intent, final orders, stipulated agreements, and any other legal remedies necessary to enforce this chapter;

(5) To issue cease and desist letters and letters of warning for infractions of this chapter;

(6) To conduct all disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it;

(7) To prepare and administer or approve the preparation and administration of licensing examinations;

(8) To establish minimum safety and sanitation standards for schools, cosmetologists, barbers, manicurists, estheticians, and salons/shops;

(9) To establish minimum instruction guidelines for the training of students;

(10) To maintain the official department record of applicants and licensees;

(11) To delegate in writing to a designee the authority to issue subpoenas, statements of charges, and any other documents necessary to enforce this chapter;

(12) To establish by rule the procedures for an appeal of an examination failure;

(13) To employ such administrative, investigative, and clerical staff as needed to implement this chapter;

(14) To set license expiration dates and renewal periods for all licenses consistent with this chapter; and

(15) To make information available to the department of revenue to assist in collecting taxes from persons required to be licensed under this chapter. [1991 c 324 § 2; 1984 c 208 § 7.]

**18.16.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.16.050 Advisory board—Members—Compensation.** There is created a state cosmetology, barbering, esthetics, and manicuring advisory board consisting of five members appointed by the governor who shall advise the director concerning the administration of this chapter. Four members of the board shall include a minimum of two instructors with the balance made up of currently practicing licensees who have been engaged in the practice of manicuring, esthetics, barbering, or cosmetology for at least three years. One member of the board shall be a consumer who is unaffiliated with the cosmetology, barbering, esthetics, or manicuring industry. The term of office for board members is three years.

Any board member may be removed for just cause. The director may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term. No board member may serve more than two consecutive terms, whether full or partial.

Board members shall be entitled to compensation pursuant to RCW 43.03.240 for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060. [1991 c 324 § 3; 1984 c 208 § 9.]

**18.16.060 Licenses required—Penalty—Exemptions.** (1) The director shall impose a fine of one thousand dollars on any person who does any of the following without first obtaining the license required by this chapter:

(a) Except as provided in subsection (2) of this section, commercial practice of cosmetology, barbering, esthetics, manicuring, or instructing;

(b) Instructs in a school;

(c) Operates a school; or

(d) Operates a salon/shop. Each booth renter shall be considered to be operating an independent salon/shop and shall obtain a separate salon/shop license.

(2) A person licensed as a cosmetology instructor-operator may engage in the commercial practice of cosmetology without maintaining a cosmetologist license. A person licensed as a barbering instructor-operator may engage in the commercial practice of barbering without maintaining a barber license. A person licensed as a manicuring instructor-operator may engage in the commercial practice of manicuring without maintaining a manicurist license. A person licensed as an esthetician instructor-operator may engage in the commercial practice of esthetics without maintaining an esthetician license. [1991 c 324 § 4; 1984 c 208 § 3.]

**18.16.090 Examinations.** Examinations for licensure under this chapter shall be conducted monthly at such times and places as the director determines appropriate. Examinations shall consist of tests designed to reasonably measure the applicant's knowledge of safe and sanitary practice. The director shall establish by rule the minimum passing score for all examinations and the requirements for reexamination of applicants who fail the examination or examinations.

The director shall take steps to ensure that after completion of the required course, applicants may promptly take the examination and receive the results of the examination. [1991 c 324 § 5; 1984 c 208 § 10.]

**18.16.100 Issuance of licenses—Requirements.** (1) Upon payment of the proper fee, the director shall issue the appropriate license to any person who:

(a) Is at least seventeen years of age or older;

(b) Has completed and graduated from a course approved by the director of sixteen hundred hours of training in cosmetology, one thousand hours of training in barbering, five hundred hours of training in manicuring, five hundred hours of training in esthetics, and/or five hundred hours of training as an instructor-trainee; and

(c) Has received a passing grade on the appropriate licensing examination approved or administered by the director.

(2) A person currently licensed under this chapter may qualify for examination and licensure, after the required examination is passed, in another category if he or she has completed the crossover training course approved by the director.

(3) Upon payment of the proper fee, the director shall issue a salon/shop license to the operator of a salon/shop if the salon/shop meets the other requirements of this chapter as demonstrated by information submitted by the operator.

(4) The director may consult with the state board of health and the department of labor and industries in establishing training and examination requirements. [1991 c 324 § 6; 1984 c 208 § 5.]

**18.16.110 Issuance of licenses—Renewals—Duplicates.** (1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter. Failure to renew a license before its expiration date subjects the holder to a penalty fee and payment of each year's renewal fee, at the current rate, up to a maximum of four years as established by the director in accordance with RCW 43.24.086. A person whose license has not been renewed for four years shall be required to submit an application, fee, meet current licensing requirements, and pass the applicable examination or examinations before the license may be reinstated: PROVIDED, That the director may waive this requirement for good cause shown. To renew a salon/shop license, the licensee shall provide proof of insurance as required by RCW 18.16.175(1)(h).

(2) Upon request and payment of an additional fee to be established by the director, the director shall issue a duplicate license to an applicant. [1991 c 324 § 7; 1984 c 208 § 12.]

**18.16.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.16.130 Issuance of licenses—Persons licensed in other jurisdictions.** Any person who is properly licensed in any state, territory, or possession of the United States, or foreign country shall be eligible for examination if the applicant submits the approved application and fee and provides proof to the director that he or she is currently licensed in good standing as a cosmetologist, barber, manicurist, esthetician, instructor, or the equivalent in that jurisdiction. Upon passage of the required examinations the appropriate license will be issued. [1991 c 324 § 10; 1984 c 208 § 11.]

**18.16.140 School licenses—Application—Approved security—Issuance—Changes in application information—Changes in controlling interest.** (1) Any person wishing to operate a school shall, before opening

such a school, file with the director for approval a license application and fee containing the following information:

(a) The names and addresses of all owners, managers, and instructors;

(b) A copy of the school's curriculum satisfying the training guidelines established by the director;

(c) A sample copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies that will be used or distributed by the school to students and the public;

(d) A description and floor plan of the school's physical equipment and facilities;

(e) A surety bond, irrevocable letter of credit, or savings assignment in an amount not less than ten thousand dollars, or ten percent of the annual gross tuition collected by the school, whichever is greater. The approved security shall not exceed fifty thousand dollars and shall run to the state of Washington for the protection of unearned prepaid student tuition. The school shall attest to its gross tuition at least annually on forms provided by the department. When a new school license is being applied for, the applicant will estimate its annual gross tuition to establish a bond amount. This subsection shall not apply to community colleges and vocational technical schools.

Upon approval of the application and documents, the director shall issue a license to operate a school with the appropriate certification or certifications.

(2) Changes to the information provided by schools shall be submitted to the department within fifteen days of the implementation date.

(3) A change involving the controlling interest of the school requires a new license application and fee. The new application shall include all required documentation, proof of ownership change, and be approved prior to a license being issued. [1991 c 324 § 11; 1987 c 445 § 1; 1984 c 208 § 6.]

**18.16.150 Schools—Compliance with chapter.** From time to time as deemed necessary by the director, schools may be audited for compliance with this chapter. If the director determines that a licensed school is not maintaining the standards required according to this chapter, written notice thereof shall be given to the school. A school which fails to correct these conditions to the satisfaction of the director within a reasonable time shall be subject to penalties imposed under RCW 18.16.210. [1991 c 324 § 12; 1984 c 208 § 8.]

**18.16.160 Schools—Claims against—Procedure.** In addition to any other legal remedy, any student or instructor-trainee having a claim against a school may bring suit upon the approved security required in RCW 18.16.140(1)(e) in the superior or district court of Thurston county or the county in which the educational services were offered by the school. Action upon the approved security shall be commenced by filing the complaint with the clerk of the appropriate superior or district court within one year from the date of the cancellation of the approved security: PROVIDED, That no

action shall be maintained upon the approved security for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Service of process in an action upon the approved security shall be exclusively by service upon the director. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the approved security and the school. The director shall transmit the complaint or a copy thereof to the school at the address listed in the director's records and to the surety within forty-eight hours after it has been received. The approved security shall not be liable in an aggregate amount in excess of the amount named in the approved security. In any action on an approved security, the prevailing party is entitled to reasonable attorney's fees and costs.

The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon approved security. [1991 c 324 § 13; 1984 c 208 § 16.]

**18.16.165 Renewal of licenses issued before January 1, 1992—Examinations for students enrolled as of January 1, 1992—School curricula deadlines.** (1) All licenses issued prior to January 1, 1992, shall remain in effect until renewal or January 1, 1993, whichever is earlier.

(a) On or before renewal of each individual's license the licensee will be allowed to designate the license to be issued. A licensed cosmetologist may request licenses in cosmetology, barbering, manicuring, and esthetics. A manicurist may request licenses in manicuring and esthetics. An instructor may request endorsements in cosmetology, barbering, manicuring, and esthetics.

(b) A renewal fee is required for each license type requested. A licensed cosmetologist requesting all four licenses shall pay four renewal fees. An instructor shall be issued one license with endorsements for the multiple areas that they teach with only one renewal fee required.

(c) After January 1, 1993, any licensee wishing to obtain additional licenses or endorsements to their licenses shall meet the training and examination requirements of this chapter.

(2) Students currently enrolled in a licensed school in an approved course as of January 1, 1992, may apply for the examination or examinations in any type or any combination of types of licenses when they complete the appropriate course.

(3) Schools must update their curricula to comply with this chapter by July 1, 1992. No students may be enrolled in the programs under the previous law if they cannot complete their training prior to January 1, 1993, to allow them to apply for examination under subsection (2) of this section. [1991 c 324 § 8.]

**18.16.170 Expiration of licenses.** (1) Subject to subsection (2) of this section, licenses issued under this chapter expire as follows:

(a) A salon/shop license expires one year from issuance or when the insurance required by RCW 18.16.175(1)(h) expires, whichever occurs first;

(b) A school license expires one year from issuance; and

(c) Cosmetologist, barber, manicurist, and instructor licenses expire two years from issuance.

(2) The director may provide for expiration dates other than those set forth in subsection (1) of this section for the purpose of establishing staggered renewal periods. [1991 c 324 § 9.]

**18.16.175 Salon/shop requirements—Complaints—Registration—Use of motor homes.** (1) A salon/shop shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the salon/shop;

(c) Be operated under the direct supervision of a licensed cosmetologist except that a salon/shop that is limited to barbering may be directly supervised by a barber, a salon/shop that is limited to manicuring may be directly supervised by a manicurist, and a salon/shop that is limited to esthetics may be directly supervised by an esthetician;

(d) Any room used wholly or in part as a salon/shop shall not be used for residential purposes, except that toilet facilities may be used jointly for residential and business purposes;

(e) Meet the zoning requirements of the county, city, or town, as appropriate;

(f) Provide for safe storage and labeling of chemicals used in the practice of cosmetology;

(g) Meet all applicable local and state fire codes;

(h) Provide proof that the salon/shop is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability; and

(i) Other requirements which the director determines are necessary for safety and sanitation of salons/shops. The director may consult with the state board of health and the department of labor and industries in establishing minimum salon/shop safety requirements.

(2) A salon/shop shall post the notice to customers described in RCW 18.16.180.

(3) Upon receipt of a written complaint that a salon/shop has violated any provisions of this chapter or the rules adopted under this chapter, the director shall inspect the salon/shop. If the director determines that any salon/shop is not in compliance with this chapter, the director shall send written notice to the salon/shop. A salon/shop which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director under RCW 18.16.210. The director may enter any salon/shop during business hours for the purpose of inspection. The director may contract

with health authorities of local governments to conduct the inspections under this subsection.

(4) A salon/shop, including a salon/shop operated by a booth renter, shall obtain a certificate of registration from the department of revenue.

(5) This section does not prohibit the use of motor homes as mobile salon/shops if the motor home meets the health and safety standards of this section. [1991 c 324 § 15.]

**18.16.180 Salon/shop—Notice required.** The director shall prepare and provide to all licensed salons/shops a notice to consumers. At a minimum, the notice shall state that cosmetology, barber, esthetics, and manicure salons/shops are required to be licensed, that salons/shops are required to maintain minimum safety and sanitation standards, that customer complaints regarding salons/shops may be reported to the department, and a telephone number and address where complaints may be made. [1991 c 324 § 16.]

**18.16.190 Location of practice—Penalty—Placebound clients.** It is a violation of this chapter for any person to engage in the commercial practice of cosmetology, barbering, esthetics, or manicuring, except in a licensed salon/shop or the home, office, or other location selected by the client for obtaining the services of a personal service operator, or with the appropriate individual license when delivering services to placebound clients. Placebound clients are defined as persons who are ill, disabled, or otherwise unable to travel to a salon/shop. [1991 c 324 § 20.]

**18.16.200 Disciplinary action—Grounds.** Any applicant or licensee under this chapter may be subject to disciplinary action by the director if the licensee or applicant:

(1) Has been found guilty of a crime related to the practice of cosmetology, barbering, esthetics, manicuring, or instructing;

(2) Has made a material misstatement or omission in connection with an original application or renewal;

(3) Has engaged in false or misleading advertising;

(4) Has performed services in an unsafe or unsanitary manner;

(5) Has aided and abetted unlicensed activity;

(6) Has engaged in the commercial practice of cosmetology, barbering, manicuring, esthetics, or instructed in or operated a school without first obtaining the license required by this chapter;

(7) Has engaged in the commercial practice of cosmetology in a school;

(8) Has not provided a safe, sanitary, and good moral environment for students and public;

(9) Has not provided records as required by this chapter;

(10) Has not cooperated with the department in supplying records or assisting in an investigation or disciplinary procedure; or

(11) Has violated any provision of this chapter or any rule adopted under it. [1991 c 324 § 14; 1984 c 208 § 13.]

**18.16.910 Severability—1991 c 324.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 324 § 22.]

## Chapter 18.19 COUNSELORS

### Sections

18.19.010	Repealed. (Effective June 30, 1995.)
18.19.020	Definitions. (Effective until June 30, 1995.)
18.19.020	Repealed. (Effective June 30, 1995.)
18.19.030	Registration or certification required. (Effective until June 30, 1995.)
18.19.030	Repealed. (Effective June 30, 1995.)
18.19.040	Repealed. (Effective June 30, 1995.)
18.19.050	Powers of secretary—Application of uniform disciplinary act—Public education program. (Effective until June 30, 1995.)
18.19.050	Repealed. (Effective June 30, 1995.)
18.19.060	Repealed. (Effective June 30, 1995.)
18.19.070	Advisory committees. (Effective until June 30, 1995.)
18.19.070	Repealed. (Effective June 30, 1995.)
18.19.080	Official records. (Effective until June 30, 1995.)
18.19.080	Repealed. (Effective June 30, 1995.)
18.19.090	Registration of counselors and hypnotherapists. (Effective until June 30, 1995.)
18.19.090	Repealed. (Effective June 30, 1995.)
18.19.100	Registration renewal. (Effective until June 30, 1995.)
18.19.100	Repealed. (Effective June 30, 1995.)
18.19.110	Certification of social workers. (Effective until June 30, 1995.)
18.19.110	Repealed. (Effective June 30, 1995.)
18.19.120	Certification of mental health counselors—Practice defined. (Effective until June 30, 1995.)
18.19.120	Repealed. (Effective June 30, 1995.)
18.19.130	Certification of marriage and family therapists—Practice defined. (Effective until June 30, 1995.)
18.19.130	Repealed. (Effective June 30, 1995.)
18.19.140	Applications for certification. (Effective until June 30, 1995.)
18.19.140	Repealed. (Effective June 30, 1995.)
18.19.150	Examination of applicants for certification. (Effective until June 30, 1995.)
18.19.150	Repealed. (Effective June 30, 1995.)
18.19.160	Certification of persons credentialed out-of-state—Temporary retirement of certified persons. (Effective until June 30, 1995.)
18.19.160	Repealed. (Effective June 30, 1995.)
18.19.170	Renewal of certificates. (Effective until June 30, 1995.)
18.19.170	Repealed. (Effective June 30, 1995.)
18.19.180	Confidential communications. (Effective until June 30, 1995.)
18.19.180	Repealed. (Effective June 30, 1995.)
18.19.190	Repealed. (Effective June 30, 1995.)
18.19.900	Repealed. (Effective June 30, 1995.)
18.19.910	Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Termination.
18.19.911	Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Repeal.

**18.19.010 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.020 Definitions.** (Effective until June 30, 1995.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Certified marriage and family therapist" means a person certified to practice marriage and family therapy pursuant to RCW 18.19.130.

(2) "Certified mental health counselor" means a person certified to practice mental health counseling pursuant to RCW 18.19.120.

(3) "Certified social worker" means a person certified to practice social work pursuant to RCW 18.19.110.

(4) "Client" means an individual who receives or participates in counseling or group counseling.

(5) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(6) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

(7) "Department" means the department of health.

(8) "Secretary" means the secretary of the department or the secretary's designee. [1991 c 3 § 19; 1987 c 512 § 3.]

**18.19.020 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.030 Registration or certification required.** (Effective until June 30, 1995.) No person may, for a fee or as a part of his or her position as an employee of a state agency, practice counseling without being registered to practice by the department under this chapter unless exempt under RCW 18.19.040. No person may represent himself or herself as a certified social worker, certified mental health counselor, or certified marriage and family therapist without being so certified by the department under this chapter. [1991 c 3 § 20; 1987 c 512 § 2.]

**18.19.030 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.040 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.050 Powers of secretary—Application of uniform disciplinary act—Public education program.** (Effective until June 30, 1995.) (1) In addition to any

other authority provided by law, the secretary has the following authority:

(a) To adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) To set all certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(c) To establish forms and procedures necessary to administer this chapter;

(d) To hire clerical, administrative, and investigative staff as needed to implement this chapter;

(e) To issue a registration to any applicant who has met the requirements for registration;

(f) To set educational, ethical, and professional standards of practice for certification;

(g) To prepare and administer or cause to be prepared and administered an examination for all qualified applicants for certification;

(h) To establish criteria for evaluating the ability and qualifications of persons applying for a certificate, including standards for passing the examination and standards of qualification for certification to practice;

(i) To evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate and to establish standards and procedures for accepting alternative training in lieu of such graduation;

(j) To issue a certificate to any applicant who has met the education, training, and conduct requirements for certification;

(k) To set competence requirements for maintaining certification; and

(l) To develop a dictionary of recognized professions and occupations providing counseling services to the public included under this chapter.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certifications and registrations and the discipline of certified practitioners and registrants under this chapter. The secretary shall be the disciplining authority under this chapter. The absence of educational or training requirements for counselors registered under this chapter or the counselor's use of nontraditional nonabusive therapeutic techniques shall not, in and of itself, give the secretary authority to unilaterally determine the training and competence or to define or restrict the scope of practice of such individuals.

(3) The department shall publish and disseminate information in order to educate the public about the responsibilities of counselors and the rights and responsibilities of clients established under this chapter. Solely for the purposes of administering this education requirement, the secretary shall assess an additional fee for each registration and certification application and renewal, equal to five percent of the fee. The revenue collected from the assessment fee may be appropriated by the legislature for the department's use in educating consumers pursuant to this section. The authority to charge the assessment fee shall terminate on June 30, 1994. [1991 c 3 § 21; 1987 c 512 § 5.]

**18.19.050 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.060 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.070 Advisory committees.** (Effective until June 30, 1995.) (1) Within sixty days of July 26, 1987, the secretary shall have authority to appoint advisory committees to further the purposes of this chapter. Each such committee shall be composed of five members, one member initially appointed for a term of one year, two for terms of two years, and two for terms of three years. No person may serve as a member of the committee for more than two consecutive terms.

The secretary may remove any member of the advisory committees for cause as specified by rule. In the case of a vacancy, the secretary shall appoint a person to serve for the remainder of the unexpired term.

(2) The advisory committees shall each meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the secretary.

Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committee.

(3) Members of an advisory committee shall be residents of this state. Each committee shall be composed of four individuals registered or certified in the category designated by the committee title, and one member who is a member of the public. [1991 c 3 § 22; 1987 c 512 § 7.]

**18.19.070 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.080 Official records.** (Effective until June 30, 1995.) The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for registration or certification under this chapter, with the result of each application. [1991 c 3 § 23; 1987 c 512 § 8.]

**18.19.080 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.090 Registration of counselors and hypnotherapists.** (Effective until June 30, 1995.) The secretary shall issue a registration to any applicant who submits, on forms provided by the secretary, the applicant's name, address, occupational title, name and location of business, and other information as determined by the secretary, including information necessary to determine whether there are grounds for denial of registration

or issuance of a conditional registration under this chapter or chapter 18.130 RCW. Applicants for registration shall register as counselors or may register as hypnotherapists if employing hypnosis as a modality. Applicants shall, in addition, provide in their titles a description of their therapeutic orientation, discipline, theory, or technique. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70-.250, which shall accompany the application. [1991 c 3 § 24; 1987 c 512 § 9.]

**18.19.090 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.100 Registration renewal.** (Effective until June 30, 1995.) The secretary shall establish by rule the procedural requirements and fees for renewal of registrations. Failure to renew shall invalidate the registration and all privileges granted by the registration. Subsequent registration will require application and payment of a fee as determined by the secretary under RCW 43.70.250. [1991 c 3 § 25; 1987 c 512 § 10.]

**18.19.100 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.110 Certification of social workers.** (Effective until June 30, 1995.) (1) The department shall issue a certified social worker certificate to any applicant meeting the following requirements:

(a) A minimum of a master's degree from an accredited graduate school of social work approved by the secretary;

(b) A minimum of two years of post-master's degree social work practice under the supervision of a social worker certified under this chapter or a person deemed acceptable to the secretary, such experience consisting of at least thirty hours per week for two years or at least twenty hours per week for three years; and

(c) Successful completion of the examination in RCW 18.19.150, unless the applicant qualified under an exemption pursuant to subsection (2) of this section or RCW 18.19.160.

Applicants shall be subject to the grounds for denial or issuance of a conditional certificate in chapter 18.130 RCW.

(2) Except as provided in RCW 18.19.160, an applicant is exempt from the examination provisions of this chapter under the following conditions if application for exemption is made within twelve months after July 26, 1987:

(a) The applicant shall establish to the satisfaction of the secretary that he or she has been engaged in the practice of social work as defined in this chapter for two of the previous four years; and

(b) The applicant has the following academic qualifications: (i) A doctorate or master's degree in social work from an accredited graduate school of social work or comparable and equivalent educational attainment as

determined by the secretary in consultation with the advisory committee; and (ii) two years of postgraduate social work experience under the supervision of a social worker who qualifies for certification under this chapter or under the supervision of any other professional deemed appropriate by the secretary.

(3) Certified social work practice is that aspect of counseling that involves the professional application of social work values, principles, and methods by individuals trained in accredited social work graduate programs and requires knowledge of human development and behavior, knowledge of social systems and social resources, an adherence to the social work code of ethics, and knowledge of and sensitivity to ethnic minority populations. It includes, but is not limited to, evaluation, assessment, treatment of psychopathology, consultation, psychotherapy and counseling, prevention and educational services, administration, policy-making, research, and education directed toward client services. [1991 c 3 § 26; 1987 c 512 § 12.]

**18.19.110 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.120 Certification of mental health counselors—Practice defined. (Effective until June 30, 1995.)** (1) The department shall issue a certified mental health counselor certificate to any applicant meeting the following requirements:

(a) A master's or doctoral degree in mental health counseling or a related field from an approved school, or completion of at least thirty graduate semester hours or forty-five graduate quarter hours in the field of mental health counseling or the substantial equivalent in both subject content and extent of training;

(b) Postgraduate supervised mental health counseling practice that meets standards established by the secretary;

(c) Qualification by an examination, submission of all necessary documents, and payment of required fees; and

(d) Twenty-four months of postgraduate professional experience working in a mental health counseling setting that meets the requirements established by the secretary.

(2) No applicant may come before the secretary for examination without the initial educational and supervisory credentials as required by this chapter, except that applicants completing a master's or doctoral degree program in mental health counseling or a related field from an approved graduate school before or within eighteen months of July 26, 1987, may qualify for the examination.

(3) For one year beginning on July 26, 1987, a person may apply for certification without examination. However, if the applicant's credentials are not adequate to establish competence to the secretary's satisfaction, the secretary may require an examination of the applicant during the initial certification period. For the initial certification period, an applicant shall:

(a) Submit a completed application as required by the secretary, who may require that the statements on the

application be made under oath, accompanied by the application fee set by the secretary in accordance with RCW 43.70.250;

(b) Have a master's or doctoral degree in counseling or a related field from an approved school; and

(c) Have submitted a completed application as required by the secretary accompanied by the application fee set by the secretary and a request for waiver from the requirements of (b) of this subsection, with documentation to show that the applicant has alternative training and experience equivalent to formal education and supervised experience required for certification.

(4) Certified mental health practice is that aspect of counseling that involves the rendering to individuals, groups, organizations, corporations, institutions, government agencies, or the general public a mental health counseling service emphasizing a wellness model rather than an illness model in the application of therapeutic principles, methods, or procedures of mental health counseling to assist the client in achieving effective personal, organizational, institutional, social, educational, and vocational development and adjustment and to assist the client in achieving independence and autonomy in the helping relationship. [1991 c 3 § 27; 1987 c 512 § 13.]

**18.19.120 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.130 Certification of marriage and family therapists—Practice defined. (Effective until June 30, 1995.)** (1) The department shall issue a certified marriage and family therapist certificate to any applicant meeting the following requirements:

(a)(i) A master's or doctoral degree in marriage and family therapy or its equivalent from an approved school that shows evidence of the following course work: (A) Marriage and family systems, (B) marriage and family therapy, (C) individual development, (D) assessment of psychopathology, (E) human sexuality, (F) research methods, (G) professional ethics and laws, and (H) a minimum of one year in the practice of marriage and family therapy under the supervision of a qualified marriage and family therapist;

(ii) Two years of postgraduate practice of marriage and family therapy under the supervision of a qualified marriage and family therapist; and

(iii) Passing scores on both written and oral examinations administered by the department for marriage and family therapists; or

(b) In the alternative, an applicant completing a master's or doctoral degree program in marriage and family therapy or its equivalent from an approved graduate school before or within eighteen months of July 26, 1987, may qualify for the examination.

(2) Except as provided in RCW 18.19.160, an applicant is exempt from the examination provisions of this section under the following conditions if application for exemption is made within twelve months after July 26, 1987:

(a) The applicant shall establish to the satisfaction of the secretary that he or she has been engaged in the practice of marriage and family therapy as defined in this chapter for two of the previous four years; and

(b) The applicant has the following academic qualifications: (i) A doctorate or master's degree in marriage and family therapy or its equivalent from an approved graduate school; and (ii) two years of postgraduate experience under the supervision of a marriage and family therapist who qualifies for certification under this chapter or under the supervision of any other professional deemed appropriate by the secretary.

(3) The practice of marriage and family therapy is that aspect of counseling that involves the assessment and treatment of impaired marriage or family relationships including, but not limited to, premarital and post-divorce relationships and the enhancement of marital and family relationships via use of educational, sociological, and psychotherapeutic theories and techniques. [1991 c 3 § 28; 1987 c 512 § 14.]

**18.19.130 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.140 Applications for certification.** (Effective until June 30, 1995.) Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250, which shall accompany the application. The department shall not knowingly permit access to or use of its mailing list of certificate holders for commercial purposes. [1991 c 3 § 29; 1987 c 512 § 17.]

**18.19.140 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.150 Examination of applicants for certification.** (Effective until June 30, 1995.) (1) The date and location of the examinations required under this chapter shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification will be scheduled for the next examination following the filing of the application. However, the applicant will not be scheduled for any examination taking place sooner than sixty days after the application is filed.

(2) The secretary shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice. The examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading thereon, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has published the results. All examinations shall be conducted by the secretary by means of fair and wholly impartial methods.

(4) Any applicant who fails to make the required grade in the first examination is entitled to take up to three subsequent examinations as the applicant desires upon the prepayment of a fee determined by the secretary as provided in RCW 43.70.250 for each subsequent examination. Upon failure of four examinations, the secretary may invalidate the original application and require remedial education prior to admittance to future examinations.

(5) The secretary may approve an examination prepared or administered, or both, by a private testing agency or association of licensing agencies for use by an applicant in meeting the licensing requirement. [1991 c 3 § 30; 1987 c 512 § 16.]

**18.19.150 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.160 Certification of persons credentialed out-of-state—Temporary retirement of certified persons.** (Effective until June 30, 1995.) (1) Upon receiving a written application, evidence of qualification and the required fee, the department shall issue a certificate for certification without examination to an applicant who is currently credentialed under the laws of another jurisdiction, if the requirements of the other jurisdiction are substantially equal to the requirements of this chapter.

(2) A person certified under this chapter who is or desires to be temporarily retired from practice in this state shall send written notice to the secretary. Upon receipt of the notice, the person shall be placed upon the nonpracticing list. While on the list, the person is not required to pay the renewal fees and shall not engage in any such practice. In order to resume practice, application for renewal shall be made in the ordinary course with the renewal fee for the current period. Persons in a nonpracticing status for a period exceeding five years shall provide evidence of current knowledge or skill, by examination, as the secretary may require. [1991 c 3 § 31; 1987 c 512 § 19.]

**18.19.160 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.170 Renewal of certificates.** (Effective until June 30, 1995.) A certificate issued under this chapter shall be renewed as determined by the secretary who may establish rules governing continuing competence requirements. An additional fee may be set by the secretary as a renewal requirement when certification has lapsed due to failure to renew prior to the expiration date. [1991 c 3 § 32; 1987 c 512 § 15.]

**18.19.170 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.180 Confidential communications.** (Effective until June 30, 1995.) An individual registered or certified under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.19.060 nor any information acquired from persons consulting the individual in a professional capacity when that information was necessary to enable the individual to render professional services to those persons except:

(1) With the written consent of that person or, in the case of death or disability, the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;

(2) That a person registered or certified under this chapter is not required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;

(3) If the person is a minor, and the information acquired by the person registered or certified under this chapter indicates that the minor was the victim or subject of a crime, the person registered or certified may testify fully upon any examination, trial, or other proceeding in which the commission of the crime is the subject of the inquiry;

(4) If the person waives the privilege by bringing charges against the person registered or certified under this chapter;

(5) In response to a subpoena from a court of law or the secretary. The secretary may subpoena only records related to a complaint or report under chapter 18.130 RCW; or

(6) As required under chapter 26.44 RCW. [1991 c 3 § 33; 1987 c 512 § 11.]

**18.19.180 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.190 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.900 Repealed.** (Effective June 30, 1995.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.19.910 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Termination.** The regulation of counselors, social workers, mental health counselors, and marriage and family counselors under chapter 18.19 RCW shall be terminated on June 30, 1994, as provided in RCW 18.19.911. [1990 c 297 § 13; 1987 c 512 § 25. Formerly RCW 43.131.357.]

Severability—1987 c 512: See RCW 18.19.901.

**18.19.911 Regulation of counselors, social workers, mental health counselors, and marriage and family counselors—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1995:

(1) Section 1, chapter 512, Laws of 1987 and RCW 18.19.010;

(2) Section 2, chapter 512, Laws of 1987 and RCW 18.19.030;

(3) Section 3, chapter 512, Laws of 1987 and RCW 18.19.020;

(4) Section 4, chapter 512, Laws of 1987 and RCW 18.19.040;

(5) Section 5, chapter 512, Laws of 1987 and RCW 18.19.050;

(6) Section 6, chapter 512, Laws of 1987 and RCW 18.19.060;

(7) Section 7, chapter 512, Laws of 1987 and RCW 18.19.070;

(8) Section 8, chapter 512, Laws of 1987 and RCW 18.19.080;

(9) Section 9, chapter 512, Laws of 1987 and RCW 18.19.090;

(10) Section 10, chapter 512, Laws of 1987 and RCW 18.19.100;

(11) Section 11, chapter 512, Laws of 1987 and RCW 18.19.180;

(12) Section 12, chapter 512, Laws of 1987 and RCW 18.19.110;

(13) Section 13, chapter 512, Laws of 1987 and RCW 18.19.120;

(14) Section 14, chapter 512, Laws of 1987 and RCW 18.19.130;

(15) Section 15, chapter 512, Laws of 1987 and RCW 18.19.170;

(16) Section 16, chapter 512, Laws of 1987 and RCW 18.19.150;

(17) Section 17, chapter 512, Laws of 1987 and RCW 18.19.140;

(18) Section 18, chapter 512, Laws of 1987 and RCW 18.19.190;

(19) Section 19, chapter 512, Laws of 1987 and RCW 18.19.160; and

(20) Section 20, chapter 512, Laws of 1987 and RCW 18.19.900. [1990 c 297 § 14; 1987 c 512 § 26. Formerly RCW 43.131.358.]

Severability—1987 c 512: See RCW 18.19.901.

## Chapter 18.20 BOARDING HOMES

Sections	Definitions.
18.20.020	Denial, suspension, revocation of license.
18.20.060	

**18.20.020 Definitions.** As used in this chapter:

(1) "Aged person" means a person of the age sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

(2) "Boarding home" means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

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

(5) "Department" means the state department of health.

(6) "Authorized department" means any city, county, city-county health department or health district authorized by the secretary of health to carry out the provisions of this chapter. [1991 c 3 § 34; 1989 c 329 § 1; 1985 c 213 § 4; 1979 c 141 § 25; 1957 c 253 § 2.]

**Savings—Effective date—1985 c 213:** See notes following RCW 43.20.050.

**18.20.060 Denial, suspension, revocation of license.** The department or the department and authorized department jointly, as the case may be, may deny, suspend, or revoke a license in any case in which it finds there has been a failure or refusal to comply with the requirements established under this chapter or the rules adopted under it. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding. [1991 c 3 § 35; 1989 c 175 § 60; 1985 c 213 § 5; 1957 c 253 § 6.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Savings—Effective date—1985 c 213:** See notes following RCW 43.20.050.

## Chapter 18.22

### PODIATRIC MEDICINE AND SURGERY

(Formerly: Podiatry)

#### Sections

18.22.005	Legislative finding—Purpose.
18.22.010	Definitions.
18.22.013	Podiatric medical board—Membership.
18.22.014	Board—Meetings—Chairperson, vice-chairperson, secretary—Members' compensation and travel expenses.
18.22.015	Board—Duties—Rules.
18.22.025	License required to practice podiatric medicine and surgery.
18.22.030	Repealed.
18.22.035	Practice of podiatric medicine and surgery—Quality—Definition—Prescriptions—Limitations.
18.22.040	Applicants—Fee—Eligibility.
18.22.050	Repealed.

18.22.060	Examination—Date, location, and application—Reexamination.
18.22.081	Repealed.
18.22.082	License—Reciprocity.
18.22.083	License—Examination to determine professional qualifications.
18.22.110	License—Display.
18.22.120	License renewal.
18.22.125	License—Inactive status.
18.22.130	Repealed.
18.22.185	Repealed.
18.22.191	Rules and regulations.
18.22.210	Unlawful practice—Evidence of.
18.22.230	Exemptions.
18.22.930	Repealed.
18.22.950	Short title.

**18.22.005 Legislative finding—Purpose.** The legislature finds that the conduct of podiatric physicians and surgeons licensed to practice in this state plays a vital role in preserving the public health and well-being. The purpose of this chapter is to establish an effective public agency to regulate the practice of podiatric medicine and surgery for the protection and promotion of the public health, safety, and welfare and to act as a disciplinary body for the licensed podiatric physicians and surgeons of this state and to ensure that only individuals who meet and maintain minimum standards of competence and conduct may obtain a license to provide podiatric services to the public. [1990 c 147 § 1; 1982 c 21 § 1.]

**18.22.010 Definitions.** As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Podiatric physician and surgeon" means an individual licensed under this chapter.

(2) "Board" means the Washington state podiatric medical board.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Approved school of podiatric medicine and surgery" means a school approved by the board, which may consider official recognition of the Council of Education of the American Podiatric Medical Association in determining the approval of schools of podiatric medicine and surgery. [1990 c 147 § 2; 1982 c 21 § 2; 1973 c 77 § 1; 1955 c 149 § 1; 1941 c 31 § 1; 1921 c 120 § 1; 1917 c 38 § 1; Rem. Supp. 1941 § 10074.]

**18.22.013 Podiatric medical board—Membership.** There is created the Washington state podiatric medical board consisting of five members to be appointed by the governor. All members shall be residents of the state. One member shall be a consumer whose occupation does not include the administration of health activities or the providing of health services and who has no material financial interest in providing health care services. Four members shall be podiatric physicians and surgeons who at the time of appointment have been licensed under the laws of this state for at least five consecutive years immediately preceding appointment and shall at all times during their terms remain licensed podiatric physicians and surgeons.

Board members shall serve five-year terms. No person may serve more than two consecutive terms on the board. Each member shall take the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of appointment and until a successor is appointed and sworn.

Each member is subject to removal at the pleasure of the governor. If a vacancy on the board occurs from any cause, the governor shall appoint a successor for the unexpired term. [1990 c 147 § 3; 1982 c 21 § 8.]

*Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.*

**18.22.014 Board—Meetings—Chairperson, vice-chairperson, secretary—Members' compensation and travel expenses.** The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson, vice-chairperson, and secretary from among its members. Members shall be compensated in accordance with RCW 43.03.240 in addition to travel expenses provided by RCW 43.03.050 and 43.03.060. A simple majority of the board members currently serving constitutes a quorum of the board. [1990 c 147 § 4; 1984 c 287 § 26; 1982 c 21 § 9.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**18.22.015 Board—Duties—Rules.** The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatric physician and surgeon licenses;
- (3) Examine and investigate all applicants for podiatric physician and surgeon licenses and certify to the secretary all applicants it judges to be properly qualified;
- (4) Adopt any rules which it considers necessary or proper to carry out the purposes of this chapter;
- (5) Determine which schools of podiatric medicine and surgery will be approved. [1990 c 147 § 5; 1986 c 259 § 18; 1982 c 21 § 10.]

**Severability—1986 c 259:** See note following RCW 18.130.010.  
*Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.*

**18.22.025 License required to practice podiatric medicine and surgery.** No person may practice or represent himself or herself as a podiatric physician and surgeon without first applying for and receiving a license under this chapter to practice podiatric medicine and surgery. [1990 c 147 § 7.]

**18.22.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.035 Practice of podiatric medicine and surgery—Quality—Definition—Prescriptions—**

**Limitations.** (1) A podiatric physician and surgeon is responsible for the quality of podiatric care.

(2) The practice of podiatric medicine and surgery is the diagnosis and the medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the human foot.

(3) Podiatric physicians and surgeons may issue prescriptions valid at any pharmacy for any drug, including narcotics, necessary in the practice of podiatry.

- (4) Podiatrists shall not:
- (a) Amputate the foot;
  - (b) Administer spinal anesthetic or any anesthetic that renders the patient unconscious; or
  - (c) Treat systemic conditions. [1990 c 147 § 6.]

**18.22.040 Applicants—Fee—Eligibility.** Before any person may take an examination for the issuance of a podiatric physician and surgeon license, the applicant shall submit a completed application and a fee determined by the secretary as provided in RCW 43.70.250. The applicant shall also furnish the secretary and the board with satisfactory proof that:

- (1) The applicant has not engaged in unprofessional conduct as defined in chapter 18.130 RCW and is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment;
- (2) The applicant has satisfactorily completed a course in an approved school of podiatric medicine and surgery. [1990 c 147 § 8; 1982 c 21 § 5; 1979 c 158 § 18; 1973 c 77 § 4; 1971 ex.s. c 292 § 19; 1955 c 149 § 2; 1935 c 48 § 3; 1921 c 120 § 3; 1917 c 38 § 6; RRS § 10079.]

**Severability—1971 ex.s. c 292:** See note following RCW 26.28.010.

**18.22.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.060 Examination—Date, location, and application—Reexamination.** (1) The date and location of the examination shall be established by the board. Applicants who have met the requirements for examination under RCW 18.22.040 will be scheduled for the next examination after the filing of the complete application. The board shall establish by rule the examination application deadline.

(2) An applicant who fails to pass an examination satisfactorily is entitled to reexamination upon the payment of a fee for each reexamination determined by the secretary as provided in RCW 43.70.250. [1990 c 147 § 9; 1985 c 7 § 11; 1982 c 21 § 7; 1975 1st ex.s. c 30 § 16; 1973 c 77 § 6; 1965 c 97 § 1; 1957 c 52 § 14. Prior: (i) 1921 c 120 § 5; 1917 c 38 § 9; RRS § 10082. (ii) 1921 c 120 § 4; 1917 c 38 § 7; RRS § 10080.]

**18.22.081 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.082 License—Reciprocity.** An applicant holding a license to practice podiatric medicine and surgery in another state may be licensed without examination if the secretary determines that the other state's licensing standards are substantively equivalent to the standards in this state. [1990 c 147 § 10.]

**18.22.083 License—Examination to determine professional qualifications.** Before being issued a license to practice podiatric medicine and surgery, applicants must successfully pass the examinations administered by the national board of podiatry examiners and an examination administered or approved by the board to determine their professional qualifications. The examination administered by the board shall include the subject areas as the board may require by rule.

The board may approve an examination prepared or administered, or both, by a private testing agency, other licensing authority, or association of licensing authorities.

The board may by rule establish the passing grade for the examination. [1990 c 147 § 11; 1982 c 21 § 13.]

**18.22.110 License—Display.** Every holder of a podiatric physician and surgeon license shall keep the license on exhibition in a conspicuous place in the holder's office or place of business. [1990 c 147 § 12; 1973 c 77 § 9; 1957 c 52 § 15. Prior: 1917 c 38 § 2, part; RRS § 10075, part.]

**18.22.120 License renewal.** The board shall establish by rule the requirements for renewal of licenses. The secretary shall establish a renewal and late renewal penalty fee as provided in RCW 43.70.250, and the term for renewal of a license under RCW 43.70.280. Failure to renew invalidates the license and all privileges granted by it. The board shall determine by rule when a license shall be canceled for failure to renew and shall establish prerequisites for relicensing. [1990 c 147 § 13; 1985 c 7 § 13; 1982 c 21 § 14; 1975 1st ex.s. c 30 § 18; 1973 c 77 § 10; 1971 ex.s. c 266 § 4; 1965 c 97 § 2; 1955 c 149 § 6. Prior: (i) 1921 c 120 § 5, part; 1917 c 38 § 9, part; RRS § 10082, part. (ii) 1921 c 120 § 9; RRS § 10096.]

**18.22.125 License—Inactive status.** (1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice podiatric medicine and surgery in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary under RCW 43.70.250, but may not exceed twenty-five percent of the active license renewal fee. Failure to renew an inactive license results in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with the rules established by the board.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license are applicable to an inactive license, except that when proceedings

to suspend or revoke an inactive license have been initiated, the license remains inactive until the proceedings have been completed. [1990 c 147 § 14.]

**18.22.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.185 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.191 Rules and regulations.** The secretary shall have the power and duty to formulate and prescribe such rules and regulations as may be reasonable in the proper administration of this chapter. In addition to any other authority provided by law, the secretary may:

(1) Set all fees required in this chapter in accordance with RCW 43.70.250;

(2) Establish forms necessary to administer this chapter;

(3) Maintain the official department record of all applicants and licensees. [1990 c 147 § 15; 1955 c 149 § 13.]

**18.22.210 Unlawful practice—Evidence of.** It is prima facie evidence of the practice of podiatric medicine and surgery or of holding oneself out as a practitioner of podiatric medicine and surgery within the meaning of this chapter for any person to treat in any manner ailments of the human foot by medical, surgical, or mechanical means or appliances, or to use the title "podiatrist," "podiatric physician and surgeon," or any other words or letters which designate or tend to designate to the public that the person so treating or holding himself or herself out to treat, is a podiatric physician and surgeon. [1990 c 147 § 16; 1982 c 21 § 17; 1973 c 77 § 17; 1935 c 48 § 4; 1921 c 120 § 6; 1917 c 38 § 10; RRS § 10083.]

**18.22.230 Exemptions.** The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The practice of podiatric medicine and surgery by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States;

(2) The practice of podiatric medicine and surgery by students enrolled in a school approved by the board. The performance of services must be pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor;

(3) The practice of podiatric medicine and surgery by licensed podiatric physicians and surgeons of other states or countries while appearing at educational seminars;

(4) The use of roentgen and other rays for making radiograms or similar records of the feet or portions thereof, under the supervision of a licensed podiatric physician and surgeon or a physician;

(5) The practice of podiatric medicine and surgery by externs, interns, and residents in training programs approved by the American Podiatric Medical Association;

(6) The performing of podiatric services by persons not licensed under this chapter when performed under the supervision of a licensed podiatrist if those services are authorized by board rule or other law to be so performed;

(7) The treatment of ailments of the feet by physicians licensed under chapter 18.57 or 18.71 RCW, or other licensed health professionals practicing within the scope of their licenses;

(8) The domestic administration of family remedies or treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination. [1990 c 147 § 17; 1982 c 21 § 19; 1973 c 77 § 19; 1955 c 149 § 12.]

**18.22.930 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.22.950 Short title.** This chapter shall be known as the Podiatric Physician and Surgeon Practice Act. [1990 c 147 § 19.]

## Chapter 18.25 CHIROPRACTIC

Sections	
18.25.006	Definitions.
18.25.017	Board—Organization, meetings, rules, compensation, travel expenses.
18.25.020	Applications—Qualifications—Fees.
18.25.040	Licensure by endorsement.
18.25.070	Annual renewal of license—Continuing education—Fees—Forfeiture—Penalties—Reexamination.
18.25.075	Inactive status.
18.25.090	Use of credentials in written materials—Chapter not applicable to treatment by prayer.
18.25.100	Prosecutions for violations.
18.25.180	Employment of x-ray technicians—Rules.
18.25.190	Exemptions—Jurisdiction of chiropractic disciplinary board.

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

- (1) "Department" means the department of health.
- (2) "Secretary" means the secretary of the department of health or the secretary's designee.
- (3) "Chiropractor" means an individual licensed under this chapter.
- (4) "Board" means the Washington state board of chiropractic examiners. [1991 c 3 § 36; 1989 c 258 § 12.]

**18.25.017 Board—Organization, meetings, rules, compensation, travel expenses.** The board shall meet as soon as practicable after appointment, and shall elect a chairman and a secretary from its members. Meetings shall be held at least once a year at such place as the

secretary shall determine, and at such other times and places as he or she deems necessary.

The board may make such rules, not inconsistent with this chapter, as it deems necessary to carry out the provisions of this chapter.

Each member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03-.060, all to be paid out of the general fund on vouchers approved by the secretary, but not to exceed in the aggregate the amount of fees collected as provided in this chapter. [1991 c 3 § 37; 1986 c 259 § 23; 1984 c 287 § 27; 1975-'76 2nd ex.s. c 34 § 32; 1974 ex.s. c 97 § 8; 1959 c 53 § 2.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1974 ex.s. c 97:** See note following RCW 18.25.120.

### 18.25.020 Applications—Qualifications—Fees.

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

(2) There shall be paid to the secretary by each applicant for a license, a fee determined by the secretary as provided in RCW 43.70.250 which shall accompany application and a fee determined by the secretary as provided in RCW 43.70.250, which shall be paid upon issuance of license. Like fees shall be paid for any subsequent examination and application. [1991 c 3 § 38; 1989 c 258 § 3; 1985 c 7 § 14; 1975 1st ex.s. c 30 § 19; 1974 ex.s. c 97 § 9; 1959 c 53 § 3; 1919 c 5 § 5; RRS § 10100.]

**Severability**—1974 ex.s. c 97: See note following RCW 18.25.120.

**18.25.040 Licensure by endorsement.** Persons licensed to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, having qualifications substantially equivalent to those required by this chapter, may, in the discretion of the board of chiropractic examiners, and after such examination as may be required by rule of the board, be issued a license to practice in this state without further examination, upon payment of a fee determined by the secretary as provided in RCW 43.70.250. [1991 c 320 § 8; 1991 c 3 § 39; 1985 c 7 § 15; 1975 1st ex.s. c 30 § 20; 1971 ex.s. c 227 § 6; 1919 c 5 § 14; RRS § 10108.]

**18.25.070 Annual renewal of license—Continuing education—Fees—Forfeiture—Penalties—Re-examination.** (1) Every person practicing chiropractic shall, as a prerequisite to annual renewal of license, submit to the secretary at the time of application therefor, satisfactory proof showing attendance of at least twenty-five hours during the preceding twelve-month period, at one or more chiropractic symposiums which are recognized and approved by the board of chiropractic examiners: **PROVIDED**, That the board may, for good cause shown, waive said attendance. The following guidelines for such symposiums shall apply:

(a) The board shall set criteria for the course content of educational symposia concerning matters which are recognized by the state of Washington chiropractic licensing laws; it shall be the licensee's responsibility to determine whether the course content meets these criteria;

(b) The board shall adopt standards for distribution of annual continuing education credit requirements;

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

(2) Every person practicing chiropractic within this state shall pay on or before his or her birth anniversary date, after a license is issued to him or her as herein provided, to said secretary a renewal license fee to be determined by the secretary as provided in RCW 43.70.250. The secretary shall, thirty days or more before the birth anniversary date of each chiropractor in the state, mail to that chiropractor a notice of the fact that the renewal fee will be due on or before his or her birth anniversary date. Nothing in this chapter shall be construed so as to require that the receipts shall be recorded as original licenses are required to be recorded.

The failure of any licensed chiropractor to pay his or her annual license renewal fee within thirty days of license expiration shall work a forfeiture of his or her license. It shall not be reinstated except upon evidence that continuing educational requirements have been fulfilled and the payment of a penalty to be determined by the secretary as provided in RCW 43.70.250, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter

up to the time of reinstatement. Should the licentiate allow his or her license to elapse for more than three years, he or she may be reexamined as provided for in RCW 18.25.040 at the discretion of the board. [1991 c 3 § 40; 1989 c 258 § 5; 1985 c 7 § 17; 1980 c 51 § 2; 1975 1st ex.s. c 30 § 22; 1974 ex.s. c 97 § 11; 1971 ex.s. c 266 § 5; 1959 c 53 § 5; 1919 c 5 § 10; RRS § 10105.]

**Severability**—1980 c 51: See note following RCW 18.25.015.

**Severability**—1974 ex.s. c 97: See note following RCW 18.25.120.

**18.25.075 Inactive status.** (1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice chiropractic in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with the rules established by the board.

(4) The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1991 c 3 § 41; 1989 c 258 § 14.]

**18.25.090 Use of credentials in written materials—Chapter not applicable to treatment by prayer.** On all cards, books, papers, signs or other written or printed means of giving information to the public, used by those licensed by this chapter to practice chiropractic, the practitioner shall use after or below his or her name the term chiropractor, chiropractic physician, D.C., or D.C.Ph.C., designating his or her line of drugless practice, and shall not use the letters M.D. or D.O.: **PROVIDED**, That the word doctor or "Dr." or physician may be used only in conjunction with the word "chiropractic" or "chiropractor". Nothing in this chapter shall be held to apply to or to regulate any kind of treatment by prayer. [1991 c 320 § 9; 1989 c 258 § 6; 1986 c 259 § 24; 1981 c 277 § 3; 1971 ex.s. c 227 § 7; 1919 c 5 § 15; RRS § 10109.]

**Severability**—1986 c 259: See note following RCW 18.130.010.

**18.25.100 Prosecutions for violations.** It shall be the duty of the several prosecuting attorneys of this state to prosecute all persons charged with the violation of any of the provisions of this chapter. It shall be the duty of the secretary to aid said attorneys of this state in the enforcement of this chapter. [1991 c 3 § 42; 1919 c 5 § 16; RRS § 10110.]

**18.25.180 Employment of x-ray technicians—Rules.** (1) A chiropractor may employ a technician to operate x-ray equipment after the technician has registered with the board.

(2) The board may adopt rules necessary and appropriate to carry out the purposes of this section. [1991 c 222 § 9.]

Effective date—1991 c 222: See RCW 18.84.903.

**18.25.190 Exemptions—Jurisdiction of chiropractic disciplinary board.** Nothing in this chapter shall be construed to prohibit:

(1) The temporary practice in this state of chiropractic by any chiropractor licensed by another state, territory, or country in which he or she resides. However, the chiropractor shall not establish a practice open to the general public and shall not engage in temporary practice under this section for a period longer than thirty days. The chiropractor shall register his or her intention to engage in the temporary practice of chiropractic in this state with the board of chiropractic examiners before engaging in the practice of chiropractic, and shall agree to be bound by such conditions as may be prescribed by rule by the board.

(2) The practice of chiropractic, except the administration of a chiropractic adjustment, by a person who is a regular senior student in an accredited school of chiropractic approved by the board if the practice is part of a regular course of instruction offered by the school and the student is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the board.

(3) The practice of chiropractic by a person serving a period of postgraduate chiropractic training in a program of clinical chiropractic training sponsored by a school of chiropractic accredited in this state if the practice is part of his or her duties as a clinical postgraduate trainee and the trainee is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the board.

(4) The practice of chiropractic by a person who is eligible and has applied to take the next available examination for licensing offered by the board of chiropractic examiners, except that the unlicensed chiropractor must provide all services under the direct control and supervision of a licensed chiropractor approved by the board. The unlicensed chiropractor may continue to practice as provided by this subsection until the results of the next available examination are published, but in no case for a period longer than six months. The board shall adopt rules necessary to effectuate the intent of this subsection.

Any provision of chiropractic services by any individual under subsection (1), (2), (3), or (4) of this section shall be subject to the jurisdiction of the chiropractic disciplinary board as provided in chapters 18.26 and 18.130 RCW. [1991 c 320 § 10.]

**Chapter 18.26**

**CHIROPRACTIC DISCIPLINARY BOARD**

Sections	
18.26.020	Definitions.
18.26.050	Vacancies.
18.26.070	Compensation and travel expenses of members.
18.26.320	Definitions.
18.26.330	Peer review committee.
18.26.340	Peer review proceedings—Requests—Records—Costs.

18.26.350	Peer review committee authority—Findings—Appeals.
18.26.360	Peer review committee complaint—Confidentiality.
18.26.370	Biennial report of peer review decisions.
18.26.380	Inadmissibility of peer review findings and decisions.
18.26.390	Rules.

**Reviser's note—Sunset Act application:** The chiropractic disciplinary board is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.337. RCW 18.26.010 through 18.26.110 and 18.26.900 are scheduled for future repeal under RCW 43.131.338.

**18.26.020 Definitions.** Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the chiropractic disciplinary board;
- (2) "License" means a certificate of license to practice chiropractic in this state as provided for in chapter 18.25 RCW;
- (3) "Members" means members of the chiropractic disciplinary board;
- (4) "Department" means the department of health;
- (5) "Secretary" means the secretary of the department of health or the secretary's designee;
- (6) "Chiropractor" means a person licensed under chapter 18.25 RCW. [1991 c 3 § 43; 1989 c 258 § 8; 1967 c 171 § 2.]

**Sunset Act application:** See note following chapter digest.

**18.26.050 Vacancies.** Vacancies on the board shall be filled as provided for initially for the position for which a vacancy exists. The vacancy shall be filled within thirty days of the existence thereof and the secretary shall be informed of the name and address of the person named to fill the vacancy. [1991 c 3 § 44; 1979 c 158 § 21; 1967 c 171 § 5.]

**Sunset Act application:** See note following chapter digest.

**18.26.070 Compensation and travel expenses of members.** Members of the board may be compensated in accordance with RCW 43.03.240 and may be paid their travel expenses while engaged in the business of the board in accordance with RCW 43.03.050 and 43.03.060, with such reimbursement to be paid out of the general fund on vouchers signed by the secretary. [1991 c 3 § 45; 1984 c 287 § 28; 1980 c 46 § 2. Prior: 1979 ex.s. c 111 § 20; 1979 c 158 § 22; 1975-'76 2nd ex.s. c 34 § 33; 1974 ex.s. c 97 § 14; 1967 c 171 § 7.]

**Sunset Act application:** See note following chapter digest.

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Severability—1979 ex.s. c 111:** See note following RCW 18.72.060.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1974 ex.s. c 97:** See note following RCW 18.25.120.

**18.26.320 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 18.26.330 through 18.26.380.

(1) "Accepted standards" means those standards of practice, skill, and treatment that are recognized by a

reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.

(2) "Appropriate chiropractic treatment" means treatment and other services performed or ordered, in connection with a substantiated and properly documented condition, which would appear to a reasonably prudent chiropractor to be consistent with the diagnosis or analysis presented.

(3) "Excessive" fees or costs means charges above the usual and customary charges in that service area as paid by public and private third-party payors.

(4) "Patient" means an individual who receives chiropractic evaluation or treatment, or both.

(5) "Peer review committee" means the committee established under RCW 18.26.330.

(6) "Peer review proceeding" or "peer review" means an evaluation, based on accepted standards, by the peer review committee, of the appropriateness, quality, utilization, and cost of health services provided to a patient. Peer review does not include matters related to the licensing, discipline, or scope of practice of any health care profession.

(7) "Properly utilized services" means appropriate services rendered or ordered, including the frequency and duration of such services, which are documented as being necessary and reasonable by clinical records and reports or by other facts, presentations, or evidence reviewed by the peer review committee.

(8) "Services rendered" means all services provided to a patient. [1991 c 320 § 1.]

**18.26.330 Peer review committee.** (1) The board shall appoint the peer review committee, which shall be constituted as follows: The chair of the peer review committee shall be a member of the board and shall not vote except to break a tie; one chiropractor from each congressional district; one independent member representative of the health insurance industry; and one representative from the department of labor and industries. The term of appointment of peer review committee members shall be one year, and no member shall serve more than four consecutive terms. The board may appoint additional pro tem members as necessary. Chiropractor members shall have at least five years of active practice in this state. The board shall adopt rules establishing other qualifications for appointment of the chiropractic members to the peer review committee, including rules to avoid conflict of interest or the appearance of conflict of interest.

(2) The peer review committee may be compensated in accordance with RCW 43.03.240 and may be paid travel expenses while engaged in the business of the committee in accordance with RCW 43.03.050 and 43.03.060. [1991 c 320 § 2.]

**18.26.340 Peer review proceedings—Requests—Records—Costs.** (1) A patient, a patient's representative, an insurer, an agency of the state of Washington, or a chiropractor may request a peer review proceeding by submitting an inquiry about services rendered to a patient by a chiropractor. The board shall, in its discretion,

determine whether the inquiry should be reviewed as a peer review proceeding, as a matter for possible voluntary mediation, or as a disciplinary proceeding. Peer review shall not be used to replace the independent medical/chiropractic examination.

(2) Request for peer review constitutes consent to submission by the requesting party of all necessary records and other information concerning the chiropractic services rendered. Chiropractors licensed under this chapter who are a party to the peer review are required to submit all necessary records and other information concerning services rendered by the chiropractor.

(3) All costs associated with conducting peer review under this chapter shall be borne by the chiropractic profession as part of the licensing fees. Notwithstanding, the board shall assess a fee to cover the costs of the review when the requesting party is a chiropractor or a third-party payor. [1991 c 320 § 3.]

**18.26.350 Peer review committee authority—Findings—Appeals.** (1) The peer review committee may review matters regarding the appropriateness, quality, utilization, or cost of chiropractic services rendered. The peer review committee on each review shall include in its findings a determination whether appropriate chiropractic treatment was rendered, whether the services rendered were properly utilized services, whether treatment or services rendered or ordered were appropriate in accordance with accepted standards, and whether the fees charged were excessive or not.

(2) The committee may appoint subcommittees to assist it in conducting peer review. All activities of the subcommittees shall be reviewed and approved or disapproved by the committee.

(3) The peer review committee shall submit to all parties and to the board a decision setting forth the committee's findings and recommendations.

(4) Any party may appeal the decision to the board. The board, on the record of the peer review committee, may return the proceeding with recommendations to the committee for reconsideration, may initiate disciplinary proceedings, or may approve the decision of the peer review committee, or may take any combination of the above actions. [1991 c 320 § 4.]

**18.26.360 Peer review committee complaint—Confidentiality.** The peer review committee shall file with the board a complaint against a chiropractor if the committee determines that reasonable cause exists to believe the chiropractor has committed unprofessional conduct. The peer review committee shall transmit all information pertinent to the complaint to the board. Such information shall be confidential and shall be used solely for disciplinary purposes. [1991 c 320 § 5.]

**18.26.370 Biennial report of peer review decisions.** The board shall prepare a biennial report summarizing its peer review decisions and shall include such report as part of the board's report requirements under RCW 18.130.310. The published summary of peer review decisions shall not be used and shall not serve as the basis

for establishing appropriate fee schedules or treatment regimes for the profession. [1991 c 320 § 6.]

**18.26.380 Inadmissibility of peer review findings and decisions.** No findings or decisions of the peer review committee shall have any effect on or be admissible in any court proceeding or administrative proceedings conducted under another chapter of the Revised Code of Washington. [1991 c 320 § 7.]

**18.26.390 Rules.** The board may adopt rules necessary and appropriate to implement RCW 18.26.320 through 18.26.380. [1991 c 320 § 11.]

### Chapter 18.27

#### REGISTRATION OF CONTRACTORS

##### Sections

18.27.100 Business practices—Advertising—Penalty.

**18.27.100 Business practices—Advertising—Penalty.** (1) Except as provided in RCW 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered under this chapter. The alphabetized listing of contractors appearing in the advertising section of telephone books or other directories and all advertising that shows the contractor's name or address shall show the contractor's current registration number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. Advertising by airwave transmission shall not be subject to this subsection if the person selling the advertisement obtains the contractor's current registration number from the contractor.

(3) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(4) A contractor shall not falsify a registration number and use it in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(5) Any person who is found to be in violation of this section by the director at a hearing held in accordance with the administrative procedure act, chapter 34.05

RCW, shall be required to pay a penalty of not more than five thousand dollars as determined by the director. However, the penalty under this section shall not apply to a violation determined to be an inadvertent error. [1990 c 46 § 1; 1987 c 362 § 3; 1980 c 68 § 1; 1979 ex.s. c 116 § 1; 1963 c 77 § 10.]

**Effective date—1979 ex.s. c 116:** "The provisions of this 1979 amendatory act shall become effective on January 1, 1980." [1979 ex.s. c 116 § 2.]

### Chapter 18.29

#### DENTAL HYGIENIST

##### Sections

18.29.021	Requirements for licensure.
18.29.045	Licensure by endorsement.
18.29.060	License issuance—Display.
18.29.071	Renewals.
18.29.100	Violations—Penalty—Prosecutions.
18.29.110	Dental hygiene examining committee—Generally.
18.29.120	Examinations—Secretary's authority—Consultation with examining authority.
18.29.130	Secretary's authority—Generally—Continuing education.
18.29.140	Approval of educational programs.
18.29.150	Examinations.
18.29.160	Immunity.
18.29.180	Exemptions from chapter.

**18.29.021 Requirements for licensure.** (1) The department shall issue a license to any applicant who, as determined by the secretary:

(a) Has successfully completed an educational program approved by the secretary. This educational program shall include course work encompassing the subject areas within the scope of the license to practice dental hygiene in the state of Washington;

(b) Has successfully completed an examination administered by the dental hygiene examining committee; and

(c) Has not engaged in unprofessional conduct or is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

(2) Applications for licensure shall be submitted on forms provided by the department. The department may require any information and documentation necessary to determine if the applicant meets the criteria for licensure as provided in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250. The fee shall be submitted with the application. [1991 c 3 § 46; 1989 c 202 § 1.]

**18.29.045 Licensure by endorsement.** An applicant holding a valid license and currently engaged in practice in another state may be granted a license without examination required by this chapter, on the payment of any required fees, if the secretary in consultation with the advisory committee determines that the other state's licensing standards are substantively equivalent to the standards in this state: PROVIDED, That the secretary in consultation with the advisory committee may require

the applicant to: (1) File with the secretary documentation certifying the applicant is licensed to practice in another state; and (2) provide information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW and to demonstrate to the secretary a knowledge of Washington law pertaining to the practice of dental hygiene. [1991 c 3 § 47; 1989 c 202 § 29.]

**18.29.060 License issuance—Display.** Upon passing an examination and meeting the requirements as provided in RCW 18.29.021, the secretary of health shall issue to the successful applicant a license as dental hygienist. The license shall be displayed in a conspicuous place in the operation room where such licensee shall practice. [1991 c 3 § 48; 1989 c 202 § 12; 1985 c 7 § 21; 1981 c 277 § 4; 1979 c 158 § 32; 1923 c 16 § 31; RRS § 10030-31.]

**18.29.071 Renewals.** The secretary shall establish by rule the requirements for renewal of licenses. The secretary shall establish a renewal and late renewal penalty fee as provided in RCW 43.70.250. Failure to renew invalidates the license and all privileges granted by the license. The secretary shall determine by rule whether a license shall be canceled for failure to renew and shall establish procedures and requirements for relicensure. [1991 c 3 § 49; 1989 c 202 § 2.]

**18.29.100 Violations—Penalty—Prosecutions.** Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor. It shall be the duty of the prosecuting attorney of each county to prosecute all cases involving a violation of this chapter arising within his or her county. The attorney general may assist in such prosecutions and shall appear at all hearings when requested to do so by the secretary of health. [1991 c 3 § 50; 1979 c 158 § 34; 1923 c 16 § 36; RRS § 10030-36.]

*Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.*

**18.29.110 Dental hygiene examining committee—Generally.** There shall be a dental hygiene examining committee consisting of three practicing dental hygienists and one public member appointed by the secretary, to be known as the Washington dental hygiene examining committee. Each dental hygiene member shall be licensed and have been actively practicing dental hygiene for a period of not less than five years immediately before appointment and shall not be connected with any dental hygiene school. The public member shall not be connected with any dental hygiene program or engaged in any practice or business related to dental hygiene. Members of the committee shall be appointed by the secretary to prepare and conduct examinations for dental hygiene licensure. Members shall be appointed to serve for terms of three years from October 1 of the year in which they are appointed. Terms of the members shall be staggered. Each member shall hold office for the

term of his or her appointment and until his or her successor is appointed and qualified. Any member of the committee may be removed by the secretary for neglect of duty, misconduct, malfeasance, or misfeasance in office, after being given a written statement of the charges against him or her and sufficient opportunity to be heard thereon. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1991 c 3 § 51; 1989 c 202 § 3.]

**18.29.120 Examinations—Secretary's authority—Consultation with examining authority.** The secretary in consultation with the Washington dental hygiene examining committee shall:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to prepare and conduct examinations for dental hygiene licensure;

(2) Require an applicant for licensure to pass an examination consisting of written and practical tests upon such subjects and of such scope as the committee determines;

(3) Set the standards for passage of the examination;

(4) Administer at least two examinations each calendar year in conjunction with examinations for licensure of dentists under chapter 18.32 RCW. Additional examinations may be given as necessary; and

(5) Establish by rule the procedures for an appeal of an examination failure. [1991 c 3 § 52; 1989 c 202 § 4.]

**18.29.130 Secretary's authority—Generally—Continuing education.** In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a license to any applicant who has met the education and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. Proceedings concerning the denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) Employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and licensees;

(6) Establish, by rule, the minimum education requirements for licensure, including but not limited to approval of educational programs; and

(7) Establish and implement by rule a continuing education program. [1991 c 3 § 53; 1989 c 202 § 5.]

**18.29.140 Approval of educational programs.** The secretary shall establish by rule the standards and procedures for approval of educational programs and may

contract with individuals or organizations having expertise in the profession or in education to report to the secretary information necessary for the secretary to evaluate the educational programs. The secretary may establish a fee for educational program evaluation. The fee shall be set to defray the administrative costs for evaluating the educational program, including, but not limited to, costs for site evaluation. [1991 c 3 § 54; 1989 c 202 § 6.]

**18.29.150 Examinations.** (1) The secretary shall establish the date and location of the examination. Applicants who meet the education requirements for licensure shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The examination shall contain subjects appropriate to the scope of practice and on laws in the state of Washington regulating dental hygiene practice.

(3) The committee shall establish by rule the requirements for a reexamination if the applicant has failed the examination.

(4) The committee may approve an examination prepared or administered by a private testing agency or association of licensing authorities. [1991 c 3 § 55; 1989 c 202 § 7.]

**18.29.160 Immunity.** The secretary, members of the committee, and individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties. [1991 c 3 § 56; 1989 c 202 § 8.]

**18.29.180 Exemptions from chapter.** The following practices, acts, and operations are excepted from the operation of this chapter:

(1) The practice of dental hygiene in the discharge of official duties by dental hygienists in the United States armed services, coast guard, public health services, veterans' bureau, or bureau of Indian affairs;

(2) Dental hygiene programs approved by the secretary and the practice of dental hygiene by students in dental hygiene programs approved by the secretary, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW acting as instructors. [1991 c 3 § 57; 1989 c 202 § 10.]

## Chapter 18.32 DENTISTRY

Sections	
18.32.010	Words defined.
18.32.030	Exemptions from chapter.
18.32.037	Board of dental examiners—Generally.
18.32.040	Requirements for licensure.
18.32.100	Applications.
18.32.110	Application fee.
18.32.120	Examination—Fee.
18.32.160	Licenses—Signed by secretary.
18.32.170	Duplicate licenses—Fee.
18.32.180	Registration requirements—Validity of license.
18.32.190	Licenses display—Notification of address.

18.32.195	University of Washington school of dentistry faculty—Licenses.
18.32.220	Certificate available for dentists going out-of-state.
18.32.520	Definitions.
18.32.534	Impaired dentist program—Content—License surcharge.
18.32.745	Unlawful practice—Employing unlicensed dentist—Penalty.

**18.32.010 Words defined.** Words used in the singular in this chapter may also be applied to the plural of the persons and things; words importing the plural may be applied to the singular; words importing the masculine gender may be extended to females also; the term "board" used in this chapter shall mean the Washington state board of dental examiners and the term "secretary" shall mean the secretary of health of the state of Washington. [1991 c 3 § 58; 1935 c 112 § 1; RRS § 10031-1.]

*Creation of board, appointment of members, etc.: RCW 18.32.035.  
Number and gender: RCW 1.12.050.*

**18.32.030 Exemptions from chapter.** The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in Washington state dental schools or colleges approved by the board, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the board of dental examiners;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a period of not less than three years and shall be available to and

subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by persons not licensed under this chapter when performed under the supervision of a licensed dentist: PROVIDED HOWEVER, That such nonlicensed person shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, and 18.88 RCW:

(a) Any removal of or addition to the hard or soft tissue of the oral cavity;

(b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(c) Any administration of general or injected local anaesthetic of any nature in connection with a dental operation, including intravenous sedation;

(d) Any oral prophylaxis;

(e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis. [1991 c 3 § 59; 1989 c 202 § 13; 1979 c 158 § 35; 1971 ex.s. c 236 § 1; 1969 c 47 § 7; 1957 c 52 § 21; 1953 c 93 § 1; 1951 c 130 § 1. Prior: (i) 1941 c 92 § 3; 1935 c 112 § 25; Rem. Supp. 1941 § 10031-25; prior: 1923 c 16 § 23. (ii) 1935 c 112 § 6; RRS § 10031-6; prior: 1923 c 16 § 1; 1901 c 152 § 5; 1893 c 55 § 11.]

**18.32.037 Board of dental examiners—Generally.** The board shall designate one of its members as chairperson and one as secretary, and it shall meet at least once in each year, and more often if necessary, at the discretion of the secretary or board, and at such times and places as the secretary or the board deems proper. A majority of the members of the board currently serving constitutes a quorum for the transaction of the business of the board. [1991 c 3 § 60; 1989 c 202 § 15; 1935 c 112 § 3; RRS § 10031-3. Formerly RCW 43.68.020.]

**18.32.040 Requirements for licensure.** The board shall require that every applicant for a license to practice dentistry shall:

(1) Present satisfactory evidence of graduation from a dental college, school, or dental department of an institution approved by the board;

(2) Submit, for the files of the board, a recent picture duly identified and attested; and

(3) Pass an examination prepared or approved by and administered under the direction of the board. The dentistry licensing examination shall consist of practical and

written tests upon such subjects and of such scope as the board determines. The board may accept, in lieu of all or part of a written examination, a certificate granted by a national or regional testing organization approved by the board. The board shall set the standards for passing the examination. The secretary shall keep on file the examination papers and records of examination for at least one year. This file shall be open for inspection by the applicant or the applicant's agent unless the disclosure will compromise the examination process as determined by the board or is exempted from disclosure under RCW 42.17.250 through 42.17.340. [1991 c 3 § 61; 1989 c 202 § 16; 1979 c 38 § 2; 1935 c 112 § 5; RRS § 10031-5. Prior: 1923 c 16 §§ 4, 5. Formerly RCW 18.32.040 and 18.32.130 through 18.32.150.]

**18.32.100 Applications.** The applicant for a dentistry license shall file an application on a form furnished by the secretary, stating the applicant's name, age, place of residence, the name of the school or schools attended by the applicant, the period of such attendance, the date of the applicant's graduation, whether the applicant has ever been the subject of any disciplinary action related to the practice of dentistry, and shall include a statement of all of the applicant's dental activities. This shall include any other information deemed necessary by the board.

The application shall be signed by the applicant and sworn to by the applicant before some person authorized to administer oaths, and shall be accompanied by proof of the applicant's school attendance and graduation. [1991 c 3 § 62; 1989 c 202 § 18; 1957 c 52 § 28; 1953 c 93 § 4; 1951 c 130 § 2; 1941 c 92 § 2; 1935 c 112 § 4; Rem. Supp. 1941 § 10031-4, part. Prior: 1923 c 16 §§ 2, 3, 6, 7; 1901 c 152 § 1; 1893 c 55 § 4.]

**18.32.110 Application fee.** Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250, which shall accompany the application. [1991 c 3 § 63; 1989 c 202 § 19; 1985 c 7 § 23; 1975 1st ex.s. c 30 § 27; 1969 c 49 § 1; 1957 c 52 § 29. Prior: 1941 c 92 § 2, part; 1935 c 112 § 4; Rem. Supp. 1941 § 10031-4, part.]

**18.32.120 Examination—Fee.** When the application and the accompanying proof are found satisfactory, the secretary shall notify the applicant to appear before the board at a time and place to be fixed by the board.

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

Any applicant who fails to make the required grade by his or her fourth examination may be reexamined only under rules adopted by the board.

Applicants for examination or reexamination shall pay a fee as determined by the secretary as provided in RCW 43.70.250. [1991 c 3 § 64; 1989 c 202 § 20; 1985 c 7 § 24; 1975 1st ex.s. c 30 § 28; 1969 c 49 § 2; 1957 c

52 § 30; 1953 c 93 § 5. Prior: 1941 c 92 § 2, part; 1935 c 112 § 4, part; Rem. Supp. 1941 § 10031-4, part.]

**18.32.160 Licenses—Signed by secretary.** All licenses issued by the secretary on behalf of the board shall be signed by the secretary or chairperson and secretary of the board. [1991 c 3 § 65; 1989 c 202 § 21; 1951 c 130 § 3; 1935 c 112 § 17; RRS § 10031-17.]

**18.32.170 Duplicate licenses—Fee.** A fee determined by the secretary as provided in RCW 43.70.250 shall be charged for every duplicate license issued by the secretary. [1991 c 3 § 66; 1985 c 7 § 25; 1975 1st ex.s. c 30 § 29; 1957 c 52 § 25. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

**18.32.180 Registration requirements—Validity of license.** (1) Every person licensed to practice dentistry in this state shall register with the secretary, and pay a renewal registration fee determined by the secretary as provided in RCW 43.70.250. Any failure to register and pay the renewal registration fee renders the license invalid, and the practice of dentistry shall not be permitted. The license shall be reinstated upon written application to the secretary and payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250, together with all delinquent license renewal fees.

(2) A person who fails to renew the license for a period of three years may not renew the license under subsection (1) of this section. In order to obtain a license to practice dentistry in this state, such a person shall file an original application as provided for in this chapter, along with the requisite fees. The board, in its sole discretion, may permit the applicant to be licensed without examination, and with or without conditions, if it is satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of dentistry. [1991 c 3 § 67; 1989 c 202 § 22; 1985 c 7 § 26; 1975 1st ex.s. c 30 § 30; 1969 c 49 § 3; 1951 c 130 § 4; 1935 c 112 § 24; RRS § 10031-24.]

**18.32.190 Licenses display—Notification of address.** Every person who engages in the practice of dentistry in this state shall cause his or her license to be, at all times, displayed in a conspicuous place, in his or her office wherein he or she shall practice such profession, and shall further, whenever requested, exhibit such license to any of the members of said board, or its authorized agent, and to the secretary or his or her authorized agent. Every licensee shall notify the secretary of the address or addresses, and of every change thereof, where the licensee shall engage in the practice of dentistry. [1991 c 3 § 68; 1981 c 277 § 7; 1935 c 112 § 7; RRS § 10031-7. Prior: 1923 c 16 § 15; 1893 c 55 § 5.]

**18.32.195 University of Washington school of dentistry faculty—Licenses.** The board may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The board may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as full-time faculty members. For purposes of this section, this means teaching members of the faculty of the school of dentistry of the University of Washington who are so employed on a one hundred percent of work time basis. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a full-time faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be such a full-time faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The board may condition the granting of such license with terms the board deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the dental disciplinary board to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the dental disciplinary board after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the dental disciplinary board that such licensee has violated any of the restrictions set forth in this section.

(3) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the board of dental examiners, licenses issued under this section may be renewed annually if the licensee continues to be employed as a full-time faculty member of the school of dentistry of the University of Washington and otherwise meets the requirements of the provisions and conditions deemed appropriate by the board of dental examiners. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter. [1991 c 3 § 69; 1985 c 111 § 1.]

**18.32.220 Certificate available for dentists going out-of-state.** Anyone who is a licensed dentist in the state of Washington who desires to change residence to another state or territory, shall, upon application to the secretary and payment of a fee as determined by the secretary under RCW 43.70.250, receive a certificate over the signature of the secretary or his or her designee, which shall attest to the facts mentioned in this section, and giving the date upon which the dentist was licensed. [1991 c 3 § 70; 1989 c 202 § 23; 1935 c 112 § 14; RRS § 10031-14. FORMER PART OF SECTION: 1935 c

112 § 15; RRS § 10031-15, now codified as RCW 18.32.225.]

**18.32.520 Definitions.** Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout RCW 18.32.510 through 18.32.755.

(1) "Board" means the dental disciplinary board created in RCW 18.32.560.

(2) "License" means a certificate or license to practice dentistry in this state as provided for in this chapter.

(3) "Member" means member of the dental disciplinary board.

(4) "Secretary" means the secretary of the dental disciplinary board.

(5) "Secretary of health" means the secretary of the department of health of the state of Washington.

(6) "To practice dentistry" means to engage in the practice of dentistry as defined in RCW 18.32.020. [1991 c 3 § 71; 1989 c 202 § 25; 1986 c 259 § 40; 1979 c 158 § 36; 1977 ex.s. c 5 § 2.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.32.534 Impaired dentist program—Content—License surcharge.** (1) To implement an impaired dentist program as authorized by RCW 18.130.175, the dental disciplinary board shall enter into a contract with a voluntary substance abuse monitoring program. The impaired dentist program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired dentists to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired dentists; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to fifteen dollars on each license issuance or renewal to be collected by the department of health from every dentist licensed under chapter 18.32 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired dentist program. [1991 c 3 § 72; 1989 c 125 § 1.]

**18.32.745 Unlawful practice—Employing unlicensed dentist—Penalty.** No manager, proprietor, partnership, or association owning, operating, or controlling any room, office, or dental parlors, where dental work is done, provided, or contracted for, shall employ or retain any unlicensed person or dentist as an operator; nor shall fail, within ten days after demand made by the secretary of health, the state board of dental examiners,

or the dental disciplinary board in writing sent by certified mail, addressed to any such manager, proprietor, partnership, or association at said room, office, or dental parlor, to furnish the secretary of health, the state board of dental examiners, or the dental disciplinary board with the names and addresses of all persons practicing or assisting in the practice of dentistry in his or her place of business or under his or her control, together with a sworn statement showing by what license or authority said persons are practicing dentistry.

The sworn statement shall not be used as evidence in any subsequent court proceedings, except in a prosecution for perjury connected with its execution.

Any violation of the provisions of this section shall constitute improper, unprofessional, and dishonorable conduct; it shall also constitute grounds for injunction proceedings as provided by this chapter and in addition shall constitute a gross misdemeanor, except that the failure to furnish the information as may be requested in accordance with this section shall constitute a misdemeanor. [1991 c 3 § 73; 1977 ex.s. c 5 § 31; 1957 c 52 § 38; 1953 c 93 § 7. Prior: 1937 c 45 § 1, part; 1935 c 112 § 18, part; RRS § 10031-18, part. Formerly RCW 18.32.350.]

## Chapter 18.34

### DISPENSING OPTICIANS

#### Sections

18.34.020	Definitions.
18.34.030	Apprentices.
18.34.070	Applicants—Eligibility for examination—Fee.
18.34.080	Examination—Issuance and display of license.
18.34.110	Existing practitioner—Fee.
18.34.115	Credentialing by endorsement.
18.34.120	Annual renewal—Fee—Reinstatement—Penalty—Continuing education.

**18.34.020 Definitions.** The term "secretary" wherever used in this chapter shall mean the secretary of health of the state of Washington. The term "apprentice" wherever used in this chapter shall mean a person who shall be designated an apprentice in the records of the secretary at the request of a physician, registered optometrist or licensee hereunder, and who shall thereafter receive from such physician, registered optometrist or licensee hereunder training and direct supervision in the work of a dispensing optician. [1991 c 3 § 74; 1979 c 158 § 37; 1957 c 43 § 2.]

**18.34.030 Apprentices.** No licensee hereunder may have more than two apprentices in training at one time: PROVIDED, That the licensee shall be responsible for the acts of his or her apprentices in the performance of their work in the apprenticeship program: PROVIDED FURTHER, That apprentices shall complete their apprenticeship in six years and shall not work longer as an apprentice unless the secretary determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing his or her apprenticeship and becoming a licensee hereunder in six years. [1991 c 3 § 75; 1957 c 43 § 3.]

**18.34.070 Applicants—Eligibility for examination—Fee.** Any applicant for a license shall be examined if he or she pays an examination fee determined by the secretary as provided in RCW 43.70.250 and certifies under oath that he or she:

- (1) Is eighteen years or more of age; and
- (2) Has graduated from an accredited high school; and
- (3) Is a citizen of the United States or has declared his or her intention of becoming such citizen in accordance with law; and
- (4) Is of good moral character; and
- (5) Has either:
  - (a) Had at least three years of apprenticeship training; or
  - (b) Successfully completed a prescribed course in opticianry in a college or university approved by the secretary; or
  - (c) Been principally engaged in practicing as a dispensing optician not in the state of Washington for five years. [1991 c 3 § 76; 1985 c 7 § 29; 1975 1st ex.s. c 30 § 34; 1971 ex.s. c 292 § 22; 1957 c 43 § 7.]

**Severability—1971 ex.s. c 292:** See note following RCW 26.28.010.

**18.34.080 Examination—Issuance and display of license.** The examination shall determine whether the applicant has a thorough knowledge of the principles governing the practice of a dispensing optician which is hereby declared necessary for the protection of the public health. The secretary shall license successful examinees and the license shall be conspicuously displayed in the place of business of the licensee. [1991 c 3 § 77; 1957 c 43 § 8.]

**18.34.110 Existing practitioner—Fee.** The secretary shall issue a license without examination to any person who makes application therefor within six months after June 12, 1957, pays a fee of fifty dollars and certifies under oath that he or she is of good moral character and has been actually and principally engaged in the practice of a dispensing optician in the state of Washington for a period of not less than six months immediately preceding June 12, 1957. [1991 c 3 § 78; 1957 c 43 § 11.]

**18.34.115 Credentialing by endorsement.** An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 33.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**18.34.120 Annual renewal—Fee—Reinstatement—Penalty—Continuing education.** Each licensee hereunder shall pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250, on or before the first day of July of each year, and thereupon the license of such person shall

be renewed for a period of one year. Any failure to pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the secretary and payment of a penalty determined by the secretary as provided in RCW 43.70.250, together with all delinquent annual license renewal fees. In addition, the secretary may adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [1991 c 3 § 79; 1984 c 279 § 52; 1975 1st ex.s. c 30 § 35; 1957 c 43 § 12.]

**Severability—1984 c 279:** See RCW 18.130.901.

## Chapter 18.35 HEARING AIDS

Sections	
18.35.010	Definitions.
18.35.040	Applicants—Generally.
18.35.060	Trainee license—Generally.
18.35.080	License—Generally.
18.35.085	Credentialing by endorsement.
18.35.090	Renewal fee—Display of license—Continuing education requirements or competency standards.
18.35.240	Violations—Surety bond or security in lieu of surety bonds.
18.35.250	Violations—Remedies—Actions on bond or security.

**18.35.010 Definitions.** As used in this chapter, unless the context requires otherwise:

- (1) "Department" means the department of health.
- (2) "Council" means the council on hearing aids.
- (3) "Hearing aid" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords and ear molds.
- (4) "Fitting and dispensing of hearing aids" means the sale, lease, or rental or attempted sale, lease, or rental of hearing aids together with the selection and adaptation of hearing aids and the use of those tests and procedures essential to the performance of these functions. It includes the taking of impressions for ear molds for these purposes.
- (5) "Secretary" means the secretary of health.
- (6) "Establishment" means any facility engaged in the fitting and dispensing of hearing aids. [1991 c 3 § 80; 1983 c 39 § 1; 1979 c 158 § 38; 1973 1st ex.s. c 106 § 1.]

**18.35.040 Applicants—Generally.** An applicant for license shall be at least eighteen years of age and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall not be issued a license under the provisions of this chapter unless the applicant:

- (1) Satisfactorily completes the examination required by this chapter; or
- (2) Holds a current, unsuspended, unrevoked license or certificate from a state or jurisdiction with which the

department has entered into a reciprocal agreement, and shows evidence satisfactory to the department that the applicant is licensed in good standing in the other jurisdiction. [1991 c 3 § 81; 1989 c 198 § 2; 1985 c 7 § 30; 1983 c 39 § 4; 1975 1st ex.s. c 30 § 36; 1973 1st ex.s. c 106 § 4.]

**18.35.060 Trainee license—Generally.** (1) The department shall issue a trainee license to any applicant who has shown to the satisfaction of the department that:

- (a) The applicant is at least eighteen years of age;
- (b) If issued a trainee license, would be employed and directly supervised in the fitting and dispensing of hearing aids by a person licensed in good standing as a fitter–dispenser for at least one year unless otherwise approved by the council; and
- (c) Has paid an application fee determined by the secretary as provided in RCW 43.70.250, to the department.

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

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

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

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

(5) No person licensed under this chapter may assume the responsibility for more than two trainees at any one time, except that the department may approve one additional trainee if none of the trainees is within the initial ninety–day period of direct supervision and the licensee demonstrates to the department's satisfaction that adequate supervision will be provided for all trainees. [1991 c 3 § 82; 1985 c 7 § 31; 1983 c 39 § 6; 1975 1st ex.s. c 30 § 37; 1973 1st ex.s. c 106 § 6.]

**18.35.080 License—Generally.** The department shall license each applicant, without discrimination, who satisfactorily completes the required examination and, upon payment of a fee determined by the secretary as provided in RCW 43.70.250 to the department, shall issue to the applicant a license. If a person does not apply

for a license within three years of the successful completion of the license examination, reexamination is required for licensure. The license shall be effective until the licensee's next birthday at which time it is subject to renewal. Subsequent renewal dates shall coincide with the licensee's birthday. [1991 c 3 § 83; 1989 c 198 § 4; 1985 c 7 § 32; 1975 1st ex.s. c 30 § 38; 1973 1st ex.s. c 106 § 8.]

**18.35.085 Credentialing by endorsement.** An applicant holding a credential in another state may be credentialed to practice in this state without examination if the board determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 31.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**18.35.090 Renewal fee—Display of license—Continuing education requirements or competency standards.** Each person who engages in the fitting and dispensing of hearing aids shall as the department prescribes by rule, pay to the department a fee established by the secretary under RCW 43.70.250 for a renewal of the license and shall keep the license conspicuously posted in the place of business at all times. Any person who fails to renew his or her license prior to the expiration date must pay a penalty fee in addition to the renewal fee and satisfy the requirements that may be set forth by rule promulgated by the secretary for reinstatement. The secretary may by rule establish mandatory continuing education requirements and/or continued competency standards to be met by licensees as a condition for license renewal. [1991 c 3 § 84; 1989 c 198 § 5; 1985 c 7 § 33; 1983 c 39 § 7; 1973 1st ex.s. c 106 § 9.]

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

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

(3) If a cash deposit is filed, the department shall deposit the funds with the state treasurer. The cash or other negotiable security deposited with the department shall be returned to the depositor one year after the establishment has discontinued the fitting and dispensing of hearing aids if no legal action has been instituted against the establishment, its agents or employees, or the cash deposit or other security. The establishment owners shall notify the department if the establishment is sold

or has discontinued the fitting and dispensing of hearing aids in order that the cash deposit or other security may be released at the end of one year from that date.

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

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

(6) The department shall immediately cancel the bond given by a surety company upon being advised that the surety company's license to transact business in this state has been revoked. [1991 c 3 § 85; 1989 c 198 § 10; 1983 c 39 § 18.]

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

(2) An action upon the bond shall be commenced by serving and filing the complaint within one year from the date of the cancellation of the bond. An action upon a cash deposit or other security shall be commenced by serving and filing the complaint within one year from the date of notification to the department of the change in ownership of the establishment or the discontinuation of the fitting and dispensing of hearing aids by that establishment. Two copies of the complaint shall be served by registered or certified mail, return receipt requested, upon the department at the time the suit is started. The service constitutes service on the surety. The secretary shall transmit one copy of the complaint to the surety within five business days after the copy has been received.

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

(4) If a judgment is entered against the deposit or security required under this chapter, the department shall, upon receipt of a certified copy of a final judgment, pay the judgment from the amount of the deposit or security. [1991 c 3 § 86; 1989 c 198 § 11; 1983 c 39 § 20.]

## Chapter 18.36A NATUROPATHY

### Sections

18.36A.010	Repealed. (Effective June 30, 1995.)
18.36A.020	Definitions. (Effective until June 30, 1995.)
18.36A.020	Repealed. (Effective June 30, 1995.)
18.36A.030	License required. (Effective until June 30, 1995.)
18.36A.030	Repealed. (Effective June 30, 1995.)
18.36A.040	Scope of practice. (Effective until June 30, 1995.)
18.36A.040	Repealed. (Effective June 30, 1995.)
18.36A.050	Application of chapter—Exemptions. (Effective until June 30, 1995.)
18.36A.050	Repealed. (Effective June 30, 1995.)
18.36A.060	Powers of secretary—Application of uniform disciplinary act. (Effective until June 30, 1995.)
18.36A.060	Repealed. (Effective June 30, 1995.)
18.36A.070	Naturopathic advisory committee. (Effective until June 30, 1995.)
18.36A.070	Repealed. (Effective June 30, 1995.)
18.36A.080	Immunity from civil liability for secretary and committee. (Effective until June 30, 1995.)
18.36A.080	Repealed. (Effective June 30, 1995.)
18.36A.090	Requirements for licensure. (Effective until June 30, 1995.)
18.36A.090	Repealed. (Effective June 30, 1995.)
18.36A.100	Standards for approval of educational programs. (Effective until June 30, 1995.)
18.36A.100	Repealed. (Effective June 30, 1995.)
18.36A.110	Examination for licensure. (Effective until June 30, 1995.)
18.36A.110	Repealed. (Effective June 30, 1995.)
18.36A.120	License standards for applicants from other jurisdictions—Reciprocity. (Effective until June 30, 1995.)
18.36A.120	Repealed. (Effective June 30, 1995.)
18.36A.130	Application for licensure—Fee. (Effective until June 30, 1995.)
18.36A.130	Repealed. (Effective June 30, 1995.)
18.36A.140	License renewal—Fee. (Effective until June 30, 1995.)
18.36A.140	Repealed. (Effective June 30, 1995.)
18.36A.910	Naturopathy—Termination.
18.36A.911	Naturopathy—Repeal.

**18.36A.010 Repealed. (Effective June 30, 1995.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.020 Definitions. (Effective until June 30, 1995.)** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Secretary" means the secretary of health or the secretary's designee.

(3) "Naturopath" means an individual licensed under this chapter.

(4) "Committee" means the Washington state naturopathic practice advisory committee.

(5) "Educational program" means a program preparing persons for the practice of naturopathy.

(6) "Nutrition and food science" means the prevention and treatment of disease or other human conditions

through the use of foods, water, herbs, roots, bark, or natural food elements.

(7) "Manual manipulation" or "mechanotherapy" means manipulation of a part or the whole of the body by hand or by mechanical means.

(8) "Physical modalities" means use of physical, chemical, electrical, and other noninvasive modalities including, but not limited to heat, cold, air, light, water in any of its forms, sound, massage, and therapeutic exercise.

(9) "Homeopathy" means a system of medicine based on the use of infinitesimal doses of medicines capable of producing symptoms similar to those of the disease treated, as listed in the homeopathic pharmacopeia of the United States.

(10) "Medicines of mineral, animal, and botanical origin" means medicines derived from animal organs, tissues, and oils, minerals, and plants administered orally and topically, excluding legend drugs with the following exceptions: Vitamins, minerals, whole gland thyroid, and substances as exemplified in traditional botanical and herbal pharmacopoeia, and nondrug contraceptive devices excluding interuterine devices. The use of intermuscular injections are limited to vitamin B-12 preparations and combinations when clinical and/or laboratory evaluation has indicated vitamin B-12 deficiency. The use of controlled substances is prohibited.

(11) "Hygiene and immunization" means the use of such preventative techniques as personal hygiene, asepsis, public health, and immunizations, to the extent allowed by rule.

(12) "Minor office procedures" means care incident thereto of superficial lacerations and abrasions, and the removal of foreign bodies located in superficial structures, not to include the eye; and the use of antiseptics and topical local anesthetics in connection therewith.

(13) "Common diagnostic procedures" means the use of venipuncture to withdraw blood, commonly used diagnostic modalities consistent with naturopathic practice, health history taking, physical examination, radiography, examination of body orifices excluding endoscopy, and laboratory medicine which obtains samples of human tissue products, including superficial scrapings but excluding procedures which would require surgical incision.

(14) "Suggestion" means techniques including but not limited to counseling, biofeedback, and hypnosis.

(15) "Radiography" means the ordering but not the interpretation of radiographic diagnostic studies and the taking and interpretation of standard radiographs. [1991 c 3 § 87; 1987 c 447 § 4.]

**18.36A.020 Repealed. (Effective June 30, 1995.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.030 License required. (Effective until June 30, 1995.)** (1) No person may practice naturopathy or represent himself or herself as a naturopath without first applying for and receiving a license from the secretary to practice naturopathy.

(2) A person represents himself or herself as a naturopath when that person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Naturopath or doctor of naturopathic medicine. [1991 c 3 § 88; 1987 c 447 § 2.]

**18.36A.030 Repealed. (Effective June 30, 1995.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.040 Scope of practice. (Effective until June 30, 1995.)** Naturopathic medicine or naturopathy is the practice by naturopaths of the art and science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or support, or both, of the natural processes of the human body. A naturopath is responsible and accountable to the consumer for the quality of naturopathic care rendered.

The practice of naturopathy includes manual manipulation (mechanotherapy), the prescription, administration, dispensing, and use, except for the treatment of malignancies or neoplastic disease, of nutrition and food science, physical modalities, homeopathy, certain medicines of mineral, animal, and botanical origin, hygiene and immunization, common diagnostic procedures, and suggestion; however, nothing in this chapter shall prohibit consultation and treatment of a patient in concert with a practitioner licensed under chapter 18.57 or 18.71 RCW. No person licensed under this chapter may employ the term "chiropractic" to describe any services provided by a naturopath under this chapter. [1991 c 3 § 89; 1988 c 246 § 1; 1987 c 447 § 3.]

**18.36A.040 Repealed. (Effective June 30, 1995.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.050 Application of chapter—Exemptions. (Effective until June 30, 1995.)** Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state who are performing services within their authorized scope of practice;

(2) The practice of naturopathic medicine by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and regulations of the United States;

(3) The practice of naturopathic medicine by students enrolled in a school approved by the secretary. The performance of services shall be pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor. The instructor shall be a naturopath licensed pursuant to this chapter; or

(4) The practice of oriental medicine or oriental herbology, or the rendering of other dietary or nutritional advice. [1991 c 3 § 90; 1987 c 447 § 5.]

**18.36A.050 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.060 Powers of secretary—Application of uniform disciplinary act. (Effective until June 30, 1995.)**

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Determine the minimum education and experience requirements for licensure in conformance with RCW 18.36A.090, including but not limited to approval of educational programs;

(e) Prepare and administer or approve the preparation and administration of examinations for licensure;

(f) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure; except that denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(g) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and to hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;

(h) Maintain the official department record of all applicants and licensees;

(i) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's equivalent alternative training to determine the applicant's eligibility to take the examination;

(j) Establish by rule the procedures for an appeal of examination failure;

(k) Conduct a hearing on an appeal of a denial of a license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to chapter 34.05 RCW; and

(l) Adopt rules implementing a continuing competency program.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses and the discipline of licensees under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 91; 1987 c 447 § 6.]

**18.36A.060 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.070 Naturopathic advisory committee. (Effective until June 30, 1995.)** (1) There is hereby created the Washington state naturopathic advisory committee consisting of five members appointed by the secretary

who shall advise the secretary concerning the administration of this chapter. Three members of the initial committee shall be persons who would qualify for licensing under this chapter. Their successors shall be naturopaths who are licensed under this chapter. Two members of the committee shall be individuals who are unaffiliated with the profession. For the initial committee, one unaffiliated member and one naturopath shall serve four-year terms, one unaffiliated member and one naturopath shall serve three-year terms, and one naturopath shall serve a two-year term. The term of office for committee members after the initial committee is four years. Any committee member may be removed for just cause including a finding of fact of unprofessional conduct, impaired practice, or more than three unexcused absences. The secretary may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term.

No committee member may serve more than two consecutive terms, whether full or partial.

(2) Committee members shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The committee may elect annually a chair and vice-chair to direct the meetings of the committee. The committee shall meet at least once each year, and may hold additional meetings as called by the secretary or the chair. [1991 c 3 § 92; 1987 c 447 § 7.]

**18.36A.070 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.080 Immunity from civil liability for secretary and committee. (Effective until June 30, 1995.)** The secretary, members of the committee, or individuals acting on their behalf, are immune from suit in any civil action based on any act performed in the course of their duties. [1991 c 3 § 93; 1987 c 447 § 8.]

**18.36A.080 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.090 Requirements for licensure. (Effective until June 30, 1995.)** The department shall issue a license to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the secretary, the minimum standard of which shall be the successful completion of a doctorate degree program in naturopathy which includes a minimum of two hundred post-graduate hours in the study of mechanotherapy from an approved educational program, or successful completion of equivalent alternate training that meets the criteria established by the secretary. The requirement for two hundred post-graduate hours in the study of mechanotherapy shall expire June 30, 1989;

(2) Successful completion of any equivalent experience requirement established by the secretary;

(3) Successful completion of an examination administered or approved by the secretary;

(4) Good moral character; and

(5) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

The secretary shall establish what constitutes adequate proof of meeting the above requirements. Any person holding a valid license to practice drugless therapeutics under chapter 18.36 RCW upon January 1, 1988, shall be deemed licensed pursuant to this chapter. [1991 c 3 § 94; 1987 c 447 § 9.]

**18.36A.090 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.100 Standards for approval of educational programs. (Effective until June 30, 1995.)** The secretary shall establish by rule the standards for approval of educational programs and alternate training and may contract with individuals or organizations having expertise in the profession and/or in education to report to the secretary the information necessary for the secretary to evaluate the educational programs. The standards for approval shall be based on the minimal competencies necessary for safe practice. The standards and procedures for approval shall apply equally to educational programs and equivalent alternate training within the United States and those in foreign jurisdictions. The secretary may establish a fee for educational program evaluation. The fee shall be determined by the administrative costs for the educational program evaluation, including, but not limited to, costs for site evaluation. [1991 c 3 § 95; 1987 c 447 § 10.]

**18.36A.100 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.110 Examination for licensure. (Effective until June 30, 1995.)** (1) The date and location of the examination shall be established by the secretary. Applicants who have been found to meet the education and experience requirements for licensure shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The examination shall contain subjects appropriate to the standards of competency and scope of practice.

(3) The secretary shall establish by rule the requirements for a reexamination if the applicant has failed the examination.

(4) The committee may recommend to the secretary an examination prepared or administered, or both, by a private testing agency or association of licensing boards. [1991 c 3 § 96; 1987 c 447 § 11.]

**18.36A.110 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.120 License standards for applicants from other jurisdictions—Reciprocity. (Effective until June 30, 1995.)** The secretary shall establish by rule the standards for licensure of applicants licensed in another jurisdiction. However, the standards for reciprocity of licensure shall not be less than required for licensure in the state of Washington. [1991 c 3 § 97; 1987 c 447 § 12.]

**18.36A.120 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.130 Application for licensure—Fee. (Effective until June 30, 1995.)** Applications for licensure shall be submitted on forms provided by the department. The department may require any information and documentation needed to determine if the applicant meets the criteria for licensure as provided in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70-.250. The fee shall be submitted with the application. [1991 c 3 § 98; 1987 c 447 § 13.]

**18.36A.130 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.140 License renewal—Fee. (Effective until June 30, 1995.)** The secretary shall establish by rule the requirements for renewal of licenses. The secretary shall establish a renewal and late renewal penalty fee as provided in RCW 43.70.250. Failure to renew shall invalidate the license and all privileges granted by the license. The secretary shall determine by rule whether a license shall be canceled for failure to renew and shall establish procedures and prerequisites for relicensure. [1991 c 3 § 99; 1987 c 447 § 14.]

**18.36A.140 Repealed. (Effective June 30, 1995.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.36A.910 Naturopathy—Termination.** The Washington state naturopathic practice advisory committee and its powers and duties shall be terminated on June 30, 1994, as provided in RCW 18.36A.910. [1990 c 297 § 11; 1987 c 447 § 21. Formerly RCW 43.131.351.]

**Severability—1987 c 447:** See RCW 18.36A.901.

**18.36A.911 Naturopathy—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1995:

(1) Section 1, chapter 447, Laws of 1987 and RCW 18.36A.010;

(2) Section 2, chapter 447, Laws of 1987 and RCW 18.36A.030;

(3) Section 3, chapter 447, Laws of 1987, section 1, chapter 246, Laws of 1988 and RCW 18.36A.040;

(4) Section 4, chapter 447, Laws of 1987 and RCW 18.36A.020;

(5) Section 5, chapter 447, Laws of 1987 and RCW 18.36A.050;

(6) Section 6, chapter 447, Laws of 1987 and RCW 18.36A.060;

(7) Section 7, chapter 447, Laws of 1987 and RCW 18.36A.070;

(8) Section 8, chapter 447, Laws of 1987 and RCW 18.36A.080;

(9) Section 9, chapter 447, Laws of 1987 and RCW 18.36A.090;

(10) Section 10, chapter 447, Laws of 1987 and RCW 18.36A.100;

(11) Section 11, chapter 447, Laws of 1987 and RCW 18.36A.110;

(12) Section 12, chapter 447, Laws of 1987 and RCW 18.36A.120;

(13) Section 13, chapter 447, Laws of 1987 and RCW 18.36A.130; and

(14) Section 14, chapter 447, Laws of 1987 and RCW 18.36A.140. [1990 c 297 § 12; 1987 c 447 § 22. Formerly RCW 43.131.352.]

Severability—1987 c 447: See RCW 18.36A.901.

### Chapter 18.43

#### ENGINEERS AND LAND SURVEYORS

##### Sections

18.43.020	Definitions.
18.43.040	Registration requirements.
18.43.050	Application—Registration fees.
18.43.060	Examinations.
18.43.070	Certificates and seals.
18.43.100	Registration of out-of-state applicants.
18.43.130	Excepted services—Fees.
18.43.150	Disposition of fees. (Effective July 1, 1993.)

**18.43.020 Definitions.** Engineer: The term "engineer" as used in this chapter shall mean a professional engineer as hereinafter defined.

Professional engineer: The term "professional engineer" within the meaning and intent of this chapter, shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined, as attested by his or her legal registration as a professional engineer.

Engineer-in-training: The term "engineer-in-training" as used in this chapter shall mean a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing, or who has had four years or more of experience in engineering work of a character

satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects prior to completion of the requisite years of experience in engineering work as provided in RCW 18.43.060, and who shall have received a certificate stating that he or she has successfully passed this portion of the professional examination.

Engineering: The term "engineering" as used in this chapter shall mean the "practice of engineering" as hereinafter defined.

Practice of engineering: The term "practice of engineering" within the meaning and intent of this chapter shall mean any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a professional engineer, or through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to perform, or who does perform, any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

Land surveyor: The term "land surveyor" as used in this chapter shall mean a person who, through technical knowledge and skill gained by education and/or by experience, is qualified to practice land surveying as hereinafter defined.

Practice of land surveying: The term "practice of land surveying" within the meaning and intent of this chapter, shall mean assuming responsible charge of the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries and monuments of land after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.

Board: The term "board" as used in this chapter shall mean the state board of registration for professional engineers and land surveyors, provided for by this chapter. [1991 c 19 § 1; 1947 c 283 § 2; Rem. Supp. 1947 § 8306-22. Prior: 1935 c 167 § 1; RRS § 8306-1.]

**18.43.040 Registration requirements.** The following will be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, engineer-in-training, or land surveyor, respectively, to wit:

As a professional engineer: A specific record of eight years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering; and successfully passing a written or oral examination, or both, in engineering as prescribed by the board.

Graduation in an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing shall be considered equivalent to four years of such required experience. The satisfactory completion of each year of such an approved engineering course without graduation shall be considered as equivalent to a year of such required experience. Graduation in a curriculum other than engineering from a school or college approved by the board shall be considered as equivalent to two years of such required experience: PROVIDED, That no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications. The board may, at its discretion, give credit as experience not in excess of one year, for satisfactory postgraduate study in engineering.

As an engineer-in-training: The board shall permit an applicant for registration as a professional engineer, upon his or her request, to take the prescribed examination in two stages. The first stage of the examination may be taken upon submission of his or her application for registration as an engineer-in-training and payment of the application fee herein prescribed, at any time after the applicant has completed four years of the required engineering experience as defined above. The first stage of the examination shall test the applicant's knowledge of appropriate fundamentals of engineering subjects, including mathematics and the basic sciences.

At any time after the completion of the required eight years of engineering experience as defined above, the applicant may take the second stage of the examination, upon submission of application for registration and payment of the application fee herein prescribed. This stage of the examination shall test the applicant's ability, upon the basis of his or her greater experience, to apply his or her knowledge and experience in the field of his or her specific training and qualifications.

As a land surveyor: A specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying, and successfully passing a written or oral examination, or both, in surveying as prescribed by the board.

Graduation from a school or college approved by the board as of satisfactory standing, including the completion of an approved course in surveying, shall be considered equivalent to four years of such required experience.

No person shall be eligible for registration as a professional engineer, engineer-in-training, or land surveyor, who is not of good character and reputation.

Engineering teaching, of a character satisfactory to the board, shall be considered as experience not in excess of two years for professional engineering and one year for land surveying.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be practice of engineering.

Any person having the necessary qualifications prescribed in this chapter to entitle him or her to registration shall be eligible for such registration although the person may not be practicing his or her profession at the time of making his or her application. [1991 c 19 § 2; 1947 c 283 § 7; Rem. Supp. 1947 § 8306-24. Prior: 1935 c 167 § 2; RRS § 8306-2.]

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

The registration fee for professional engineers shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

The registration fee for land surveyors shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

Should the board find an applicant ineligible for registration, the registration fee shall be retained as an application fee. [1991 c 19 § 3; 1985 c 7 § 42; 1975 1st ex.s. c 30 § 46; 1947 c 283 § 8; Rem. Supp. 1947 § 8306-25. Prior: 1935 c 167 § 6; RRS § 8306-6.]

**18.43.060 Examinations.** When oral or written examinations are required, they shall be held at such time and place as the board shall determine. If examinations are required on fundamental engineering subjects (such as ordinarily given in college curricula) the applicant shall be permitted to take this part of the professional examination prior to his or her completion of the requisite years of experience in engineering work. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that the applicant has passed the examination in fundamental engineering subjects and that his or her name has been recorded as an engineer-in-training.

The scope of the examination and the methods of procedure shall be prescribed by the board with special

reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing an examination may apply for reexamination. Subsequent examinations will be granted upon payment of a fee to be determined by the director as provided in RCW 43.24.086. [1991 c 19 § 4; 1961 c 142 § 2; 1947 c 283 § 9; Rem. Supp. 1947 § 8306–26. Prior: 1935 c 167 § 7; RRS § 8306–7.]

**18.43.070 Certificates and seals.** The director of licensing shall issue a certificate of registration upon payment of a registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering" and specify the branch or branches in which specialized, and in case of a registered land surveyor, the certificate shall authorize the practice of "land surveying".

In case of engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training". All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board and by the director of licensing.

The issuance of a certificate of registration by the director of licensing shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer or a registered land surveyor, while the said certificate remains unrevoked and unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer" or "registered land surveyor". Plans, specifications, plats and reports prepared by the registrant shall be signed, dated, and stamped with said seal or facsimile thereof. Such signature and stamping shall constitute a certification by the registrant that the same was prepared by or under his or her direct supervision and that to his or her knowledge and belief the same was prepared in accordance with the requirements of the statute. It shall be unlawful for anyone to stamp or seal any document with said seal or facsimile thereof after the certificate of registrant named thereon has expired or been revoked, unless said certificate shall have been renewed or reissued. [1991 c 19 § 5; 1959 c 297 § 4; 1947 c 283 § 10; Rem. Supp. 1947 § 8306–27. Prior: 1935 c 167 §§ 8, 13; RRS § 8306–8, 13.]

**18.43.100 Registration of out-of-state applicants.** The board may, upon application and the payment of a fee determined by the director as provided in RCW 43.24.086, issue a certificate without further examination as a professional engineer or land surveyor to any person

who holds a certificate of qualification of registration issued to the applicant following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, provided: (1) That the applicant's qualifications meet the requirements of the chapter and the rules established by the board, and (2) that the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country. [1991 c 19 § 7; 1985 c 7 § 44; 1975 1st ex.s. c 30 § 48; 1959 c 297 § 6; 1947 c 283 § 13; Rem. Supp. 1947 § 8306–30. Prior: 1935 c 167 § 5; RRS § 8306–5.]

**18.43.130 Excepted services—Fees.** This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or

(2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person has been determined by the board to be legally qualified by registration to practice the said profession in his or her own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. The person shall request such a determination by completing an application prescribed by the board and accompanied by a fee determined by the director. Upon approval of the application, the board shall issue a permit authorizing temporary practice; or

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

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

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and

such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) In the event a corporation, organized solely by a group of engineers, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to such corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in this subsection. In the event the ownership of such corporation shall be altered, the corporation shall apply for a

revised certificate of authorization, based upon the professional records of the owners, if exclusively engineers or, otherwise, under the qualifications required by subparagraphs (a), (b), (c), and (d) hereof.

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

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

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

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

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

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

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

the responsible persons designated by corporations as provided in subsection (8) of this section.

For each certificate of authorization issued under the provisions of this subsection (9) of this section there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086. [1991 c 19 § 6; 1985 c 7 § 46; 1975 1st ex.s. c 30 § 50; 1965 ex.s. c 126 § 2; 1961 c 142 § 5; 1959 c 297 § 7; 1947 c 283 § 16; Rem. Supp. 1947 § 8306-33. Prior: 1935 c 167 § 2; RRS § 8306-2.]

**18.43.150 Disposition of fees. (Effective July 1, 1993.)** All fees collected under the provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, and 18.43.130 and fines collected under RCW 18.43.110 shall be paid into the professional engineers' account, which account is hereby established in the state treasury to be used to carry out the purposes and provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, 18.43.110, 18.43.120, 18.43.130, 18.43.140 and all other duties required for operation and enforcement of this chapter. [1991 c 277 § 2; 1985 c 57 § 5; 1965 ex.s. c 126 § 3.]

**Effective date—1991 c 277:** See note following RCW 18.85.220.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

## Chapter 18.44

### ESCROW AGENT REGISTRATION ACT

#### Sections

18.44.070 Records and accounts—Segregation and disbursements of funds.

**18.44.070 Records and accounts—Segregation and disbursements of funds.** Every certificated escrow agent shall keep adequate records of all transactions handled by or through the agent including itemization of all receipts and disbursements of each transaction, which records shall be open to inspection by the director or the director's authorized representatives.

Every certificated agent shall keep a separate escrow fund account in a recognized Washington state depository authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

An escrow agent, unless exempted by RCW 18.44.020(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. An escrow agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

(1) Cash;

(2) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;

(3) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state; or

(4) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or

(5) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the Federal Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq.

The word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the registration or license of any certified escrow agent. [1990 c 203 § 1; 1988 c 178 § 1; 1977 ex.s. c 156 § 6; 1965 c 153 § 7.]

**Severability—1988 c 178:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 178 § 4.]

### Chapter 18.46

#### MATERNITY HOMES

##### Sections

18.46.010	Definitions.
18.46.050	License—Denial, suspension, revocation.

**18.46.010 Definitions.** (1) "Maternity home" means any home, place, hospital or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(2) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(3) "Department" means the state department of health. [1991 c 3 § 100; 1985 c 213 § 8; 1979 c 141 § 32; 1951 c 168 § 2. Prior: 1943 c 214 § 1; Rem. Supp. 1943 § 6130-47.]

**Savings—Effective date—1985 c 213:** See notes following RCW 43.20.050.

**18.46.050 License—Denial, suspension, revocation.** The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.

RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding. [1991 c 3 § 101; 1989 c 175 § 63; 1985 c 213 § 9; 1951 c 168 § 6.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Savings—Effective date—1985 c 213:** See notes following RCW 43.20.050.

### Chapter 18.50

#### MIDWIFERY

##### Sections

18.50.005	Definitions.
18.50.010	Practicing midwifery defined—Gratuitous services—Duty to consult with physician.
18.50.020	License required.
18.50.034	Exemptions—Persons enrolled in midwifery programs.
18.50.040	Candidates for examination—Application—Eligibility, training, and education requirements—Student midwife permits.
18.50.045	Midwifery education programs—Accreditation.
18.50.050	Admission of candidate to examination—Fee—Reexamination.
18.50.060	Examinations—Times and places—Subjects—Issuance of license.
18.50.065	Credentialing by endorsement.
18.50.102	Annual registration—Renewal fee—Delinquent renewals.
18.50.105	Inform patient of qualifications of midwife—Form.
18.50.115	Administration of drugs and medications.
18.50.135	Rules.
18.50.140	Midwifery advisory committee—Generally.
18.50.150	Midwifery advisory committee—Advice and recommendations—Transmittal to legislature.

**18.50.005 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

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

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

(3) "Midwife" means a midwife licensed under this chapter.

(4) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW. [1991 c 3 § 102; 1987 c 467 § 1; 1981 c 53 § 2.]

**Effective date—1981 c 53:** "Sections 1, 2, 5, 6, 8, 9, 10, 11, and 13 through 17 of this act shall take effect January 15, 1982." [1981 c 53 § 19.] For codification of 1981 c 53, see Codification Tables, Volume 0.

**18.50.010 Practicing midwifery defined—Gratuitous services—Duty to consult with physician.** Any person shall be regarded as practicing midwifery within the meaning of this chapter who shall render medical aid for a fee or compensation to a woman during prenatal, intrapartum, and postpartum stages or who shall advertise as a midwife by signs, printed cards, or otherwise. Nothing shall be construed in this chapter to prohibit gratuitous services. It shall be the duty of a midwife to consult with a physician whenever there are significant deviations from normal in either the mother or the infant. [1991 c 3 § 103; 1987 c 467 § 2; 1981 c 53 § 5; 1917 c 160 § 8; RRS § 10181. Formerly RCW 18.50.010, 18.50.030, part, and 18.50.090.]

**Effective date**—1981 c 53: See note following RCW 18.50.005.

**18.50.020 License required.** Any person who shall practice midwifery in this state after July 1, 1917, shall first obtain from the secretary a license so to do, and the said secretary is authorized to grant such license after examination of the applicant as hereinafter provided. [1991 c 3 § 104; 1917 c 160 § 1; RRS § 10174.]

**18.50.034 Exemptions—Persons enrolled in midwifery programs.** Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of midwifery by a person who is enrolled in a program of midwifery approved and accredited by the secretary: PROVIDED, That the performance of such services is only pursuant to a regular course of instruction or assignment from the student's instructor, and that such services are performed only under the supervision and control of a person licensed in the state of Washington to perform services encompassed under this chapter. [1991 c 3 § 105; 1981 c 53 § 11.]

**Effective date**—1981 c 53: See note following RCW 18.50.005.

**18.50.040 Candidates for examination—Application—Eligibility, training, and education requirements—Student midwife permits.** (1) Any person seeking to be examined shall present to the secretary, at least forty-five days before the commencement of the examination, a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require and proof the candidate has received a high school degree or its equivalent; that the candidate is twenty-one years of age or older; that the candidate has received a certificate or diploma from a midwifery program accredited by the secretary and licensed under chapter 28C.10 RCW, when applicable, or a certificate or diploma in a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant was graduated. Foreign candidates must present with the application a translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued.

(2) The candidate shall meet the following conditions:

(a) Obtaining a minimum period of midwifery training for at least three years including the study of the basic nursing skills that the department shall prescribe by rule. However, if the applicant is a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, or has had previous nursing education or practical midwifery experience, the required period of training may be reduced depending upon the extent of the candidate's qualifications as determined under rules adopted by the department. In no case shall the training be reduced to a period of less than two years.

(b) Meeting minimum educational requirements which shall include studying obstetrics; neonatal pediatrics; basic sciences; female reproductive anatomy and

physiology; behavioral sciences; childbirth education; community care; obstetrical pharmacology; epidemiology; gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects of midwifery; nutrition during pregnancy and lactation; breast feeding; nursing skills, including but not limited to injections, administering intravenous fluids, catheterization, and aseptic technique; and such other requirements prescribed by rule.

(c) For a student midwife during training, undertaking the care of not less than fifty women in each of the prenatal, intrapartum, and early postpartum periods, but the same women need not be seen through all three periods. A student midwife may be issued a permit upon the satisfactory completion of the requirements in (a), (b), and (c) of this subsection and the satisfactory completion of the licensure examination required by RCW 18.50.060. The permit permits the student midwife to practice under the supervision of a midwife licensed under this chapter, a physician or a certified nurse-midwife licensed under the authority of chapter 18.88 RCW. The permit shall expire within one year of issuance and may be extended as provided by rule.

(d) Observing an additional fifty women in the intrapartum period before the candidate qualifies for a license.

(3) Notwithstanding subsections (1) and (2) of this section, the department shall adopt rules to provide credit toward the educational requirements for licensure before July 1, 1988, of nonlicensed midwives, including rules to provide:

(a) Credit toward licensure for documented deliveries;

(b) The substitution of relevant experience for classroom time; and

(c) That experienced lay midwives may sit for the licensing examination without completing the required coursework.

The training required under this section shall include training in either hospitals or alternative birth settings or both with particular emphasis on learning the ability to differentiate between low-risk and high-risk pregnancies. [1991 c 3 § 106; 1987 c 467 § 3; 1986 c 299 § 24; 1981 c 53 § 6; 1917 c 160 § 2; RRS § 10175.]

**Severability—Effective date**—1986 c 299: See RCW 28C.10.900 and 28C.10.902.

**Effective date**—1981 c 53: See note following RCW 18.50.005.

**18.50.045 Midwifery education programs—Accreditation.** The secretary shall promulgate standards by rule under chapter 34.05 RCW for accrediting midwifery educational programs. The standards shall cover the provision of adequate clinical and didactic instruction in all subjects and noncurriculum matters under this section including, but not limited to, staffing and teacher qualifications. In developing the standards, the secretary shall be advised by and receive the recommendations of the midwifery advisory committee. [1991 c 3 § 107; 1981 c 53 § 7.]

**18.50.050 Admission of candidate to examination—Fee—Reexamination.** If the application is approved and the candidate shall have deposited an examination fee determined by the secretary as provided in RCW 43.70.250 with the secretary, the candidate shall be admitted to the examination, and in case of failure to pass the examination, may be reexamined at any regular examination within one year without the payment of an additional fee, said fee to be retained by the secretary after failure to pass the second examination. [1991 c 3 § 108; 1985 c 7 § 48; 1975 1st ex.s. c 30 § 51; 1917 c 160 § 3; RRS § 10176.]

*Limitation on increases in midwifery fees: RCW 43.24.086.*

**18.50.060 Examinations—Times and places—Subjects—Issuance of license.** (1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in midwifery at least twice a year at such times and places as the secretary may select. The examinations shall be written and shall be in the English language.

(2) The secretary, with the assistance of the midwifery advisory committee, shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by a licensed midwife. The examination shall be sufficient to test the scientific and practical fitness of candidates to practice midwifery. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is satisfactorily completed, the secretary shall issue to such candidate a license entitling the candidate to practice midwifery in the state of Washington. [1991 c 3 § 109; 1987 c 467 § 4; 1981 c 53 § 8; 1979 c 158 § 43; 1917 c 160 § 4; RRS § 10177.]

**Effective date—1981 c 53:** See note following RCW 18.50.005.

**18.50.065 Credentialing by endorsement.** An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 32.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**18.50.102 Annual registration—Renewal fee—Delinquent renewals.** Every person licensed to practice midwifery shall register with the secretary annually and pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250 on or before the licensee's birth anniversary date. The license of the person shall be renewed for a period of one year. Any failure to register and pay the annual renewal registration fee shall render the license invalid. The license shall be reinstated upon written application to the secretary, payment to the state of a penalty fee determined by

the secretary as provided in RCW 43.70.250, and payment to the state of all delinquent annual license renewal fees. Any person who fails to renew his or her license for a period of three years shall not be entitled to renew such license under this section. Such person, in order to obtain a license to practice midwifery in this state, shall file a new application under this chapter, along with the required fee. The secretary, in the secretary's discretion, may permit the applicant to be licensed without examination if satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of midwifery. [1991 c 3 § 110; 1985 c 7 § 49; 1981 c 53 § 13.]

**Effective date—1981 c 53:** See note following RCW 18.50.005.  
*Limitation on increases in midwifery fees: RCW 43.24.086.*

**18.50.105 Inform patient of qualifications of midwife—Form.** The secretary, with the advice of the midwifery advisory committee, shall develop a form to be used by a midwife to inform the patient of the qualifications of a licensed midwife. [1991 c 3 § 111; 1981 c 53 § 12.]

**18.50.115 Administration of drugs and medications.** A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic and may administer such other drugs or medications as prescribed by a physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

The secretary, after consultation with representatives of the midwife advisory committee, the board of pharmacy, and the board of medical examiners, may issue regulations which authorize licensed midwives to purchase and use legend drugs and devices in addition to the drugs authorized in this chapter. [1991 c 3 § 112; 1987 c 467 § 6.]

**18.50.135 Rules.** The secretary shall promulgate rules under chapter 34.05 RCW as are necessary to carry out the purposes of this chapter. [1991 c 3 § 113; 1981 c 53 § 15.]

**Effective date—1981 c 53:** See note following RCW 18.50.005.

**18.50.140 Midwifery advisory committee—Generally.** The midwifery advisory committee is created.

The committee shall be composed of one physician who is a practicing obstetrician; one practicing physician; one certified nurse midwife licensed under chapter 18.88 RCW; three midwives licensed under this chapter; and one public member, who shall have no financial interest in the rendering of health services. The committee may seek other consultants as appropriate, including persons trained in childbirth education and perinatology or neonatology.

The members are appointed by the secretary and serve at the pleasure of the secretary but may not serve more than five years consecutively. The terms of office shall be staggered. Members of the committee shall be

reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. [1991 c 3 § 114; 1987 c 467 § 5; 1981 c 53 § 3.]

**18.50.150 Midwifery advisory committee—Advice and recommendations—Transmittal to legislature.** The midwifery advisory committee shall advise and make recommendations to the secretary on issues including, but not limited to, continuing education, mandatory re-examination, and peer review. The secretary shall transmit the recommendations to the social and health services committee of the senate and the human services committee of the house of representatives on an annual basis. [1991 c 3 § 115; 1981 c 53 § 4.]

## Chapter 18.51 NURSING HOMES

### Sections

18.51.050	License—Issuance, renewal—Fee—Display.
18.51.100	Repealed. (Effective June 30, 1993.)
18.51.110	Repealed. (Effective June 30, 1993.)
18.51.310	Comprehensive plan for utilization review—Licensing standards—Regulations.
18.51.910	Nursing home advisory council—Termination.
18.51.911	Nursing home advisory council—Repeal.

**18.51.050 License—Issuance, renewal—Fee—Display.** Upon receipt of an application for license, the department shall issue a license if the applicant and the nursing home facilities meet the requirements established under this chapter, except that the department shall issue a temporary license to a court-appointed receiver for a period not to exceed six months from the date of appointment. Prior to the issuance or renewal of the license, the licensee shall pay a license fee as established by the department. No fee shall be required of government operated institutions or court-appointed receivers. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed thirty-six months in duration. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay a fee established by the department at the time of application for the license. The previously determined date of license expiration shall not change. The department shall establish license fees at an amount adequate to reimburse the department in full for all costs of its licensing activities for nursing homes, adjusted to cover the department's cost of reimbursing such fees through Medicaid.

All applications and fees for renewal of the license shall be submitted to the department not later than thirty days prior to the date of expiration of the license. All applications and fees for change of ownership licenses shall be submitted to the department not later than sixty days before the date of the proposed change of ownership. Each license shall be issued only to the operating entity and those persons named in the license application. The license is valid only for the operation of

the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises. [1991 1st sp.s. c 8 § 1; 1989 c 372 § 1; 1985 c 284 § 4; 1981 2nd ex.s. c 11 § 2; 1981 1st ex.s. c 2 § 17; 1975 1st ex.s. c 99 § 1; 1971 ex.s. c 247 § 2; 1953 c 160 § 4; 1951 c 117 § 6.]

**Effective date—1991 1st sp.s. c 8:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 1st sp.s. c 8 § 21.]

**Severability—Effective dates—1981 1st ex.s. c 2:** See notes following RCW 18.51.010.

**18.51.100 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.51.110 Repealed. (Effective June 30, 1993.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.51.310 Comprehensive plan for utilization review—Licensing standards—Regulations.** (1) The department shall establish, in compliance with federal and state law, a comprehensive plan for utilization review as necessary to safeguard against unnecessary utilization of care and services and to assure quality care and services provided to nursing facility residents.

(2) The department shall adopt licensing standards suitable for implementing the civil penalty system authorized under this chapter and chapter 74.46 RCW.

(3) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and chapter 74.46 RCW. [1991 1st sp.s. c 8 § 2; 1981 2nd ex.s. c 11 § 5; 1981 1st ex.s. c 2 § 12; 1980 c 184 § 5; 1979 ex.s. c 211 § 67; 1977 ex.s. c 244 § 1.]

**Effective date—1991 1st sp.s. c 8:** See note following RCW 18.51.050.

**Severability—Effective dates—1981 1st ex.s. c 2:** See notes following RCW 18.51.010.

**Conflict with federal requirements—1980 c 184:** See RCW 74.42.630.

**Effective date—1979 ex.s. c 211:** See RCW 74.42.920.

**18.51.910 Nursing home advisory council—Termination.** The nursing home advisory council and its powers and duties shall be terminated on June 30, 1992, as provided in RCW 18.51.911. [1990 c 297 § 3; 1988 c 288 § 4; 1986 c 270 § 3; 1983 c 197 § 24. Formerly RCW 43.131.301.]

**18.51.911 Nursing home advisory council—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1993:

(1) Section 11, chapter 117, Laws of 1951, section 1, chapter 85, Laws of 1971 ex. sess., section 65, chapter 211, Laws of 1979 ex. sess., section 39, chapter 287, Laws of 1984 and RCW 18.51.100; and

(2) Section 12, chapter 117, Laws of 1951, section 66, chapter 211, Laws of 1979 ex. sess. and RCW 18.51-.110. [1990 c 297 § 4; 1988 c 288 § 5; 1986 c 270 § 4; 1983 c 197 § 50. Formerly RCW 43.131.302.]

### Chapter 18.52 NURSING HOME ADMINISTRATORS

Sections	
18.52.020	Definitions.
18.52.060	Board of examiners for nursing home administrators—Generally.
18.52.070	Qualifications of licensees—Examinations.
18.52.100	Duties and responsibilities of board.
18.52.110	Reregistration of licenses.
18.52.130	Reciprocity.

**18.52.020 Definitions.** When used in this chapter, unless the context otherwise clearly requires:

(1) "Board" means the state board of examiners for the licensing of nursing home administrators representative of the professions and institutions concerned with the care of the chronically ill and infirm aged patients.

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

(3) "Nursing home" means any facility or portion thereof licensed under state law as a nursing home.

(4) "Nursing home administrator" means an individual in active administrative charge of nursing homes as defined herein, whether or not having an ownership interest in such homes, and although functions and duties may be shared with or delegated to other persons: **PROVIDED HOWEVER**, That nothing in this definition or this chapter shall be construed to prevent any person, so long as he or she is otherwise qualified, from obtaining and maintaining a license even though he or she has not administered or does not continue to administer a nursing home. [1991 c 3 § 116; 1979 c 158 § 44; 1970 ex.s. c 57 § 2.]

**18.52.060 Board of examiners for nursing home administrators—Generally.** The board shall elect from its membership a chairman, vice chairman, and secretary-treasurer, and shall adopt rules to govern its proceedings. The chairman or four board members by signed written request may call board meetings upon reasonable written notice to each member. Each member shall be compensated in accordance with RCW 43.03-.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. A full-time or part-time executive secretary for the board may be employed by the secretary through the department of health, and the secretary through the department of health shall provide the executive secretary and the board with such secretarial, administrative, and other assistance as may be required to carry out the purposes of this chapter. Employment of an executive secretary shall be subject to confirmation by the board. The position of executive secretary shall be exempt from the requirements of chapter 41.06 RCW. [1991 c 3 § 117; 1984 c 287 § 40; 1979 c 158 § 45; 1975-'76 2nd ex.s. c 34 § 38; 1970 ex.s. c 57 § 6.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**18.52.070 Qualifications of licensees—Examinations.** Upon the secretary's receipt of an application and examination fee determined by the secretary as provided in RCW 43.70.250, and completed application forms provided by the secretary, a nursing home administrator's license shall be issued to any person who:

(1) Is at least twenty-one years of age and of good moral character.

(2) Has presented evidence satisfactory to the board of practical experience, education, and training which, when evaluated according to criteria developed by the board, is equivalent to two years of experience in the operation of a nursing home: **PROVIDED**, That after January 1, 1980, no license shall be issued to any applicant unless such applicant has either successfully completed at least two years of formal education beyond the high school level or holds an associate degree from a recognized institution of higher learning: **PROVIDED FURTHER**, That the educational degree required by this subsection may be waived for individuals who present evidence satisfactory to the board of sufficient practical experience.

(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal instruction and training or actual experience: **PROVIDED HOWEVER**, That nothing in this chapter or the rules under this chapter shall be construed to require an applicant for a license or provisional license as a nursing home administrator who is certified by any well established and generally recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions: **PROVIDED FURTHER**, That any such individual shall demonstrate in the process of application for the examination his or her membership in such church or religious denomination and his or her license shall indicate the limited extent of his or her authority to act as an administrator.

(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or

procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970. [1991 c 3 § 118; 1984 c 279 § 65; 1977 ex.s. c 243 § 2; 1975 1st ex.s. c 30 § 52; 1970 ex.s. c 57 § 7.]

**Severability**—1984 c 279: See RCW 18.130.901.

**18.52.100 Duties and responsibilities of board.** The board with the assistance of the secretary for administrative matters shall have the duty and responsibility within the limits provided in this chapter:

(1) To develop standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall include criteria to evaluate the practical experience, education, and training of applicants for licenses to determine that applicants have the equivalent of two years of experience in the operation of a nursing home. The standards and criteria shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators as provided in this chapter.

(2) To develop appropriate techniques, including examinations and investigations to the extent necessary to determine whether an individual meets such standards for licensing.

(3) To develop, administer, and supervise an administrator-in-training program for applicants for licenses who are otherwise qualified but do not have the equivalent of two years experience in the operation of a nursing home at the time of application. Such program shall provide for supervision of each administrator-in-training by licensed nursing home administrators as preceptors. The board shall have the authority to do all acts necessary for the implementation of such a program, including, but not limited to, conducting education and training programs, establishing standards of qualification for preceptors, establishing criteria for creating and evaluating individual programs, and monitoring such programs to assure compliance with rules and regulations adopted by the board.

(4) To issue licenses to individuals determined by the board, after the application of such techniques, to meet such standards and to order the secretary to deny licenses to individuals who do not meet such standards or who are in violation of this chapter or chapter 18.130 RCW.

(5) To conduct a continuing study and investigation of the licensing of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of new administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who are to be licensed.

(6) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct and continue such training and instruction

courses and programs as will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards for licensing nursing home administrators.

(7) To establish and carry out procedures, if required, designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements and standards for licensing set forth in this chapter.

(8) To establish appropriate procedures for the issuance in unusual circumstances and without examination of temporary license permits as nursing home administrators. Such permits may be issued and renewed by the secretary pursuant to rules which shall be established by the board. Such permits and renewals shall be subject to confirmation or rescission by order of the board upon review at the next board meeting. Any such permit or renewal thereof shall in all events expire six months from the date issued. Persons receiving such permits need not have passed the required examination but shall meet the other requirements of this chapter, except RCW 18.52.070(2). After hearing before the board and upon order of the board the board may take appropriate disciplinary action for the reasons provided in this chapter or chapter 18.130 RCW.

(9) To advise the relevant state agencies regarding receipt and administration of such federal funds as are made available to carry out the educational purposes of this chapter.

(10) To advise the secretary regarding the application forms used by the secretary under this chapter.

(11) To issue rules which are necessary to carry out the functions of the board specifically assigned to it by this chapter. [1991 c 3 § 119; 1987 c 150 § 33; 1977 ex.s. c 243 § 4; 1970 ex.s. c 57 § 10.]

**Severability**—1987 c 150: See RCW 18.122.901.

**18.52.110 Reregistration of licenses.** (1) Every holder of a nursing home administrator's license shall reregister it annually with the secretary on dates specified by the secretary by making application for reregistration on forms provided by the secretary. Such reregistration shall be granted automatically upon receipt of a fee determined by the secretary as provided in RCW 43.70.250. In the event that any license is not reregistered within thirty days after the date for reregistration specified by the secretary, the secretary shall, in accordance with rules prescribed by the board, give notice to the license holder, and may thereafter in accordance with rules prescribed by the board charge up to double the normal reregistration fee. In the event that the license of an individual is not reregistered within two years from the most recent date for reregistration it shall lapse and such individual must again apply for licensing and meet all requirements of this chapter for a new applicant. The board may prescribe rules for maintenance of a license at a reduced fee for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.

(2) A condition of reregistration shall be the presentation of proof by the applicant that he or she has attended the number of classroom hours of approved educational programs, classes, seminars, or proceedings set by the board. The board shall have the power to approve programs, classes, seminars, or proceedings offered in this state or elsewhere by any accredited institution of higher learning or any national or local group or society if such programs, classes, seminars, or proceedings are reasonably related to the administration of nursing homes. The board shall establish rules providing that the applicant for reregistration may present such proofs yearly, or may obtain the cumulative number of required hours over a three year period and present such proofs over periods of three years. In no event shall the number of classroom hours required for any time period exceed the number of such board approved classroom hours reasonably available over such time period on an adult or continuing education basis to nonmatriculating participants in this state.

(3) An individual may obtain and reregister a license under this chapter although he or she does not actively engage in nursing home administration. The licensee shall meet requirements set by the board to ensure the individual's continued competency. [1991 c 3 § 120; 1984 c 279 § 69; 1975 1st ex.s. c 30 § 54; 1971 ex.s. c 266 § 9; 1970 ex.s. c 57 § 11.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.52.130 Reciprocity.** Upon receipt of an application fee determined by the secretary as provided in RCW 43.70.250 and an annual license fee, the secretary may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction: **PROVIDED**, That the board finds that the standards for licensing in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified. In the event that there is developed a nationally recognized standard for the licensing of nursing home administrators which is in fact utilized in licensing procedures on a reasonably uniform basis the board may by rule or regulation provide for granting reciprocal licensing on a showing of compliance with such standard. [1991 c 3 § 121; 1985 c 7 § 50; 1975 1st ex.s. c 30 § 55; 1970 ex.s. c 57 § 13.]

#### Chapter 18.52A

#### NURSING HOMES—NURSING ASSISTANTS TRAINING PROGRAM

##### Sections

18.52A.010	Repealed.
18.52A.020	Repealed.
18.52A.030	Repealed.
18.52A.040	Repealed.
18.52A.050	Repealed.

**18.52A.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52A.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52A.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52A.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52A.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

#### Chapter 18.52B

#### NURSING ASSISTANTS

##### Sections

18.52B.050	Repealed.
18.52B.080	Repealed.
18.52B.110	Repealed.
18.52B.120	Repealed.
18.52B.150	Repealed.
18.52B.160	Repealed.
18.52B.900	Repealed.
18.52B.901	Repealed.

**18.52B.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.160 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.52B.901 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 18.52C NURSING POOLS

#### Sections

18.52C.020	Definitions.
18.52C.030	Registration required.
18.52C.040	Duties of nursing pool—Application of uniform disciplinary act.

**18.52C.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Secretary" means the secretary of the department of health.

(2) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for the delivery of health care services.

(3) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(4) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses, and nursing assistants. "Nursing pool" does not include an individual who only engages in providing his or her own services.

(5) "Person" includes an individual, firm, corporation, partnership, or association. [1991 c 3 § 130; 1988 c 243 § 2.]

**18.52C.030 Registration required.** A person who operates a nursing pool shall register the pool with the secretary. Each separate location of the business of a nursing pool shall have a separate registration.

The secretary, by rule, shall establish forms and procedures for the processing of nursing pool registration applications, including the payment of registration fees pursuant to RCW 43.70.250. An application for a nursing pool registration shall include at least the following information:

(1) The names and addresses of the owner or owners of the nursing pool; and

(2) If the owner is a corporation, copies of its articles of incorporation and current bylaws, together with the names and addresses of its officers and directors.

A registration issued by the secretary in accordance with this section shall remain effective for a period of one year from the date of its issuance unless the registration is revoked or suspended pursuant to RCW 18.52C.040(4), or unless the nursing pool is sold or ownership or management is transferred, in which case the registration of the nursing pool shall be voided and the new owner or operator shall apply for a new registration. [1991 c 3 § 131; 1988 c 243 § 3.]

**18.52C.040 Duties of nursing pool—Application of uniform disciplinary act.** (1) The nursing pool shall document that each temporary employee or referred independent contractor provided or referred to health care facilities currently meets the minimum state credentialing requirements.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

(4) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The secretary shall be the disciplinary authority under this chapter. [1991 c 3 § 132; 1988 c 243 § 4.]

### Chapter 18.53 OPTOMETRY

#### Sections

18.53.021	License required.
18.53.035	Credentialing by endorsement.
18.53.050	Certificate renewal—Suspension for failure to pay.
18.53.060	License applicants—Eligibility—Qualifications—Examinations—Exception.
18.53.070	Examination application and registration fees.
18.53.100	Disciplinary action—Grounds.
18.53.140	Unlawful acts.

**18.53.021 License required.** It is a violation of RCW 18.130.190 for any person to practice optometry in this state without first obtaining a license from the secretary of health. [1991 c 3 § 133; 1987 c 150 § 38.]

**Severability—1987 c 150:** See RCW 18.122.901.

**18.53.035 Credentialing by endorsement.** An applicant holding a credential in another state may be credentialled to practice in this state without examination if the board determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 30.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**18.53.050 Certificate renewal—Suspension for failure to pay.** Every registered optometrist shall annually or on the date specified by the secretary pay to the state treasurer a renewal fee, to be determined by the secretary as provided in RCW 43.70.250, and failure to pay such fee within the prescribed time shall cause the suspension of his or her certificate. [1991 c 3 § 134; 1985 c 7 § 51; 1983 c 168 § 8; 1981 c 277 § 8; 1975 1st ex.s. c 30 § 56; 1971 ex.s. c 266 § 10; 1955 c 275 § 1; 1919 c 144 § 13; RRS § 10158.]

**Severability—1983 c 168:** See RCW 18.120.910.

**18.53.060 License applicants—Eligibility—Qualifications—Examinations—Exception.** From and after January 1, 1940, in order to be eligible for examination for registration, a person shall be a citizen of the United States of America, who shall have a preliminary education of or equal to four years in a state accredited high school and has completed a full attendance course in a regularly chartered school of optometry maintaining a standard which is deemed sufficient and satisfactory by the optometry board, who is a person of good moral character, who is not afflicted with any contagious or infectious disease, who has a visual acuity in at least one eye, of a standard known as 20/40 under correction: PROVIDED, That from and after January 1, 1975, in order to be eligible for examination for a license, a person shall have the following qualifications:

(1) Be a graduate of a state accredited high school or its equivalent;

(2) Have a diploma or other certificate of completion from an accredited college of optometry or school of optometry, maintaining a standard which is deemed sufficient and satisfactory by the optometry board, conferring its degree of doctor of optometry or its equivalent, maintaining a course of four scholastic years in addition to preprofessional college level studies, and teaching substantially all of the following subjects: General anatomy, anatomy of the eyes, physiology, physics, chemistry, pharmacology, biology, bacteriology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field charting and orthoptics, general laws of optics and refraction and use of the ophthalmoscope, retinoscope and other clinical instruments necessary in the practice of optometry;

(3) Be of good moral character; and

(4) Have no contagious or infectious disease.

Such person shall file an application for an examination and license with said board at any time thirty days prior to the time fixed for such examination, or at a later date if approved by the board, and such application must be on forms approved by the board, and properly attested, and if found to be in accordance with the provisions of this chapter shall entitle the applicant upon payment of the proper fee, to take the examination prescribed by the board. Such examination shall not be out of keeping with the established teachings and adopted

textbooks of the recognized schools of optometry, and shall be confined to such subjects and practices as are recognized as essential to the practice of optometry. All candidates without discrimination, who shall successfully pass the prescribed examination, shall be registered by the board and shall, upon payment of the proper fee, be issued a license. The optometry board, at its discretion, may waive all or a portion of the written examination for any applicant who has satisfactorily passed the examination given by the National Board of Examiners in Optometry. Any license to practice optometry in this state issued by the secretary, and which shall be in full force and effect at the time of passage of \*this 1975 amendatory act, shall be continued. [1991 c 3 § 135; 1975 1st ex.s. c 69 § 4; 1937 c 155 § 1; 1919 c 144 § 5; Rem. Supp. 1937 § 10150. Prior: 1909 c 235 § 7. Formerly RCW 18.53.060 and 18.53.080.]

\*Reviser's note: "This 1975 amendatory act," see note following RCW 18.53.040.

**18.53.070 Examination application and registration fees.** The fees for application for examination and for issuing a certificate of registration shall be determined by the secretary as provided in RCW 43.70.250, which shall be paid to the secretary as he or she shall prescribe. [1991 c 3 § 136; 1985 c 7 § 52; 1981 c 260 § 5. Prior: 1975 1st ex.s. c 69 § 5; 1975 1st ex.s. c 30 § 57; 1919 c 144 § 9; RRS § 10151; prior: 1909 c 235 § 7.]

**18.53.100 Disciplinary action—Grounds.** The following constitutes grounds for disciplinary action under chapter 18.130 RCW:

(1) Any form of fraud or deceit used in securing a license; or

(2) Any unprofessional conduct, of a nature likely to deceive or defraud the public; or

(3) The employing either directly or indirectly of any person or persons commonly known as "cappers" or "steerers" to obtain business; or

(4) To employ any person to solicit from house to house, or to personally solicit from house to house; or

(5) Advertisement in any way in which untruthful, improbable or impossible statements are made regarding treatments, cures or values; or

(6) The use of the term "eye specialist" in connection with the name of such optometrist; or

(7) Inability to demonstrate, in a manner satisfactory to the secretary or the board of optometry, their practical ability to perform any function set forth in RCW 18.53.010 which they utilize in their practice. [1991 c 3 § 137; 1986 c 259 § 81; 1975 1st ex.s. c 69 § 6; 1919 c 144 § 11; RRS § 10156. Prior: 1909 c 235 §§ 11, 12.]

**Savings—1986 c 259 §§ 81, 85:** "The repeal of RCW 18.53.020 and the amendment of RCW 18.53.100 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before June 11, 1986." [1986 c 259 § 86.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

*Alcoholism, intoxication, and drug addiction treatment: Chapter 70.96A RCW.*

*False advertising: Chapter 9.04 RCW.*

*Violation of Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.*

**18.53.140 Unlawful acts.** It shall be unlawful for any person:

(1) To sell or barter, or offer to sell or barter any license issued by the secretary; or

(2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or

(3) To alter with fraudulent intent in any material regard such license; or

(4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or

(5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: PROVIDED, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

(6) To practice optometry in this state either for him or herself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the secretary of health; or

(7) To in any manner barter or give away as premiums either on his own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(8) To use drugs in the practice of optometry, except those topically applied for diagnostic or therapeutic purposes; or

(9) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limitation, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

(10) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

(11) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which

statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

(12) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

(13) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

(14) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time. [1991 c 3 § 138; 1989 c 36 § 2; 1986 c 259 § 82; 1981 c 58 § 3; 1979 c 158 § 47; 1975 1st ex.s. c 69 § 7; 1945 c 78 § 1; 1935 c 134 § 1; 1919 c 144 § 7; Rem. Supp. 1945 § 10152. Cf. 1909 c 235 § 5.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**False advertising:** Chapter 9.04 RCW.

*Violation of Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.*

## Chapter 18.54 OPTOMETRY BOARD

### Sections

18.54.050	Meetings.
18.54.070	Powers and duties—Examinations—Rules.
18.54.140	Board may draw from health professions account.

**18.54.050 Meetings.** The board must meet at least once yearly or more frequently upon call of the chairman or the secretary of health at such times and places as the chairman or the secretary of health may designate by giving three days' notice or as otherwise required by RCW 42.30.075. [1991 c 3 § 139; 1989 c 175 § 65; 1979 c 158 § 48; 1975 1st ex.s. c 69 § 9; 1963 c 25 § 5.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Severability—1975 1st ex.s. c 69:** See RCW 18.53.911.

**18.54.070 Powers and duties—Examinations—Rules.** The board has the following powers and duties:

(1) The board shall prepare the necessary lists of examination questions, conduct examinations, either written or oral or partly written and partly oral, and shall certify to the secretary of health all lists, signed by all members conducting the examination, of all applicants for licenses who have successfully passed the examination and a separate list of all applicants for licenses who have failed to pass the examination, together with a copy of all examination questions used, and the written answers to questions on written examinations submitted by each of the applicants.

(2) The board shall adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the purposes of this chapter, to aid the

board in the performance of its powers and duties, and to govern the practice of optometry. [1991 c 3 § 140; 1986 c 259 § 84; 1979 c 158 § 49; 1975 1st ex.s. c 69 § 10; 1963 c 25 § 7.]

**Severability**—1986 c 259: See note following RCW 18.130.010.

**Severability**—1975 1st ex.s. c 69: See RCW 18.53.911.

**18.54.140 Board may draw from health professions account.** Notwithstanding any other provisions of law, rule or regulation, the board may draw from the health professions account on vouchers approved by the secretary of health, so much money as is necessary to carry into effect, to administer, and to enforce the provisions of this chapter. [1991 c 3 § 141; 1983 c 168 § 9; 1979 c 158 § 50; 1975 1st ex.s. c 69 § 12; 1963 c 25 § 14.]

**Severability**—1983 c 168: See RCW 18.120.910.

**Severability**—1975 1st ex.s. c 69: See RCW 18.53.911.

*Health professions account: RCW 43.70.320.*

## Chapter 18.55 OCULARISTS

### Sections

18.55.015	Intent.
18.55.020	Definitions.
18.55.030	Licenses—Issuance—Time for renewal— Expiration.
18.55.040	License applicants—Qualifications—Examination.
18.55.045	Examination.
18.55.050	Licenses or registrations—Renewal.
18.55.060	Apprentices.
18.55.075	Scope of practice.
18.55.085	Unprofessional conduct.
18.55.095	Authority of secretary.
18.55.105	Out-of-state applicants.

**18.55.015 Intent.** The legislature finds it necessary to regulate the practice of ocularist to protect the public health, safety, and welfare. The legislature intends that only individuals who meet and maintain minimum standards of competence and conduct may provide service to the public. [1991 c 180 § 1.]

**18.55.020 Definitions.** The terms defined in this section shall have the meaning ascribed to them wherever appearing in this chapter, unless a different meaning is specifically used to such term in such statute.

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

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

(3) "Ocularist" means a person licensed under this chapter.

(4) "Advisory committee" means the state ocularist advisory committee.

(5) "Apprentice" means a person designated an apprentice in the records of the secretary to receive from a licensed ocularist training and direct supervision in the work of an ocularist.

(6) "Stock-eye" means an ocular stock prosthesis that has not been originally manufactured or altered by the ocularist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" means either taking away or adding materials, or

colorization, or otherwise changing the prosthesis' appearance, function, or fit in the socket or on the implant of the patient or customer.

(7) "Modified stock-eye" means a stock-eye, as defined in subsection (6) of this section, that has been altered in some manner by the ocularist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" is as defined in subsection (6) of this section. A modified stock-eye cannot be defined as either a "custom" or "impression-fitted" eye or prosthesis by adding material that incorporates an impression-surface of the patient or customer socket or implant surfaces.

(8) "Custom-eye" means an original, newly manufactured eye or prosthesis that has been specifically crafted by an ocularist or authorized service provider for the patient or customer to whom it is sold or provided. The "custom-eye" may be either an impression-fitted eye (an impression of the socket or implant surfaces) or an empirical/wax pattern-fitted method eye, or a combination of either, as delineated in the ocularist examination. [1991 c 180 § 2; (1991 c 3 § 142 repealed by 1991 1st sp.s. c 11 § 2); 1980 c 101 § 2.]

**18.55.030 Licenses—Issuance—Time for renewal—Expiration.** Upon receipt of an application for a license and the license fee as determined by the secretary, the secretary shall issue a license if the applicant meets the requirements established under this chapter. The license, unless suspended or revoked, shall be renewed annually. All licenses issued under the provisions of this chapter shall expire on the 1st day of July. [1991 c 3 § 143; 1980 c 101 § 3.]

**18.55.040 License applicants—Qualifications—Examination.** No applicant shall be licensed under this chapter until the applicant pays an examination fee determined by the secretary, as provided in RCW 43.70-.250, and certifies under oath after furnishing satisfactory documentation, that the applicant:

(1) Is eighteen years or more of age;

(2) Has graduated from high school or has received a general equivalency degree;

(3) Is of good moral character; and

(4)(a) Had at least ten thousand hours of apprenticeship training under the direct supervision of a licensed ocularist; or

(b) Successfully completed a prescribed course in ocularist training programs approved by the secretary; or

(c) Has had at least ten thousand hours of apprenticeship training under the direct supervision of a practicing ocularist, or has the equivalent experience as a practicing ocularist, or any combination of training and supervision, not in the state of Washington; and

(5) Successfully passes an examination conducted or approved by the secretary. [1991 c 180 § 4; (1991 c 3 § 144 repealed by 1991 1st sp.s. c 11 § 2); 1985 c 7 § 53; 1980 c 101 § 4.]

**18.55.045 Examination.** The secretary may approve an examination prepared or administered by a private

testing agency or association of licensing authorities. The examination shall determine if the applicant has a thorough knowledge of the principles governing the practice of an ocularist. [1991 c 180 § 5.]

**18.55.050 Licenses or registrations—Renewal.** Every individual licensed or registered under this chapter shall pay an annual license or registration renewal fee determined by the secretary, as provided by RCW 43.70.250, on or before the expiration date established by the secretary. An application for renewal shall be on the form provided by the secretary and shall be filed with the department of health not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a renewal fee in an amount to be determined by the secretary. Any license or registration not renewed as provided in this section shall be invalid.

The secretary may provide by rule the procedures that may allow for the reinstatement of a license or registration upon payment of the renewal fee and a late renewal penalty fee. [1991 c 180 § 6; (1991 c 3 § 145 repealed by 1991 1st sp.s. c 11 § 2); 1985 c 7 § 54; 1980 c 101 § 7.]

**18.55.060 Apprentices.** (1) A person wishing to work as an apprentice ocularist shall submit to the secretary the registration fee and completed application form signed by the applicant and the licensed ocularist who shall be responsible for the acts of the apprentice in the performance of his or her work in the apprenticeship program.

(2) Apprentices shall complete their ten thousand hours of apprenticeship within eight years and shall not work longer as an apprentice unless the secretary determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing the apprenticeship and becoming a licensee hereunder in eight years.

(3) No licensee under this chapter may have more than two apprentices in training at one time. [1991 c 180 § 7; 1991 c 3 § 146; 1980 c 101 § 5.]

**Reviser's note:** This section was amended by 1991 c 3 § 146 and by 1991 c 180 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**18.55.075 Scope of practice.** An ocularist designs, fabricates, and fits ocular prosthetic appliances. An ocularist is authorized to perform the necessary procedures to provide an ocular prosthetic service for the patient in the ocularist's office or laboratory on referral of a physician. A referral is not required for the replacement of an ocular prosthetic appliance. The ocularist is authorized to make judgment on the needed care, replacement, and use of an ocular prosthetic appliance. The ocularist is authorized to design, fabricate, and fit human prosthetics in the following categories:

- (1) Stock and custom prosthetic eyes;
- (2) Stock and custom therapeutic scleral shells;
- (3) Stock and custom therapeutic painted iris shells;
- (4) External orbital and facial prosthetics; and

(5) Ocular conformers: PROVIDED, That nothing herein shall be construed to allow the fitting or fabricating of contact lenses. [1991 c 180 § 3.]

**18.55.085 Unprofessional conduct.** An ocularist or authorized service provider shall explain to patients or customers exactly which type of prosthesis or service they are receiving or purchasing. Failure to do so, or misrepresentation of said services, constitutes unprofessional conduct under this chapter and chapter 18.130 RCW. [1991 c 180 § 9.]

**18.55.095 Authority of secretary.** In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. Proceedings concerning the denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) Employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and licensees;

(6) Determine the minimum education and experience requirements for licensure, including but not limited to approval of educational programs;

(7) Prepare and administer or approve the preparation and administration of examinations for licensure; and

(8) Establish and implement by rule a continuing competency program. [1991 c 180 § 8.]

**18.55.105 Out-of-state applicants.** An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 180 § 12.]

## Chapter 18.57

### OSTEOPATHY—OSTEOPATHIC MEDICINE AND SURGERY

Sections	
18.57.001	Definitions.
18.57.003	State board of osteopathic medicine and surgery— Membership—Qualifications—Officers— Meetings—Compensation and travel expenses— Removal.
18.57.020	Licenses—Application requirements.
18.57.035	Postgraduate training licenses.
18.57.040	Licensing exemptions.
18.57.045	Inactive licenses.
18.57.050	Fees—Renewal of licenses.

- 18.57.080 Examinations.  
 18.57.085 Repealed.  
 18.57.130 Persons licensed by other states—Requirements—Fees.  
 18.57.145 Use of designations in combination with name.

**18.57.001 Definitions.** As used in this chapter:

- (1) "Board" means the Washington state board of osteopathic medicine and surgery;  
 (2) "Department" means the department of health;  
 (3) "Secretary" means the secretary of health; and  
 (4) "Osteopathic medicine and surgery" means the use of any and all methods in the treatment of disease, injuries, deformities, and all other physical and mental conditions in and of human beings, including the use of osteopathic manipulative therapy. The term means the same as "osteopathy and surgery". [1991 c 160 § 1; 1991 c 3 § 147; 1979 c 117 § 1.]

**18.57.003 State board of osteopathic medicine and surgery—Membership—Qualifications—Officers—Meetings—Compensation and travel expenses—Removal.** There is hereby created an agency of the state of Washington, consisting of seven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. One member shall be a consumer who has neither a financial nor a fiduciary relationship to a health care delivery system, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson, a secretary, and a vice-chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-

thirds of the physicians licensed under this chapter and in active practice in this state. [1991 c 160 § 2; 1984 c 287 § 42; 1979 c 117 § 2.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

*Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.*

**18.57.020 Licenses—Application requirements.** A license shall be issued by the secretary authorizing the holder to practice osteopathic medicine and surgery. In order to procure a license to practice osteopathic medicine and surgery, the applicant must provide the board evidence that a diploma has been issued to the applicant by an accredited school of osteopathic medicine and surgery, approved by the board. The application shall be made upon a form prepared by the secretary, with the approval of the board, and it shall contain such information concerning said osteopathic medical instruction and the preliminary education of the applicant as the board may by rule provide. Applicants who have failed to meet the requirements must be rejected.

An applicant for a license to practice osteopathic medicine and surgery must furnish evidence satisfactory to the board that he or she has served for not less than one year in a postgraduate training program approved by the board.

In addition, the applicant may be required to furnish evidence satisfactory to the board that he or she is physically and mentally capable of safely carrying on the practice of osteopathic medicine and surgery. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice osteopathic medicine and surgery. The applicant shall also show that he or she has not been guilty of any conduct which would constitute grounds for denial, suspension, or revocation of such license under the laws of the state of Washington.

Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary.

Nothing in this chapter shall be construed to require any applicant for licensure, or any licensee, as a requisite of retaining or renewing licensure under this chapter, to be a member of any political and/or professional organization. [1991 c 160 § 3; (1991 c 3 § 148 repealed by 1991 1st sp.s. c 11 § 2); 1979 c 117 § 11; 1959 c 110 § 1; 1919 c 4 § 4; RRS § 10056. Cf. 1909 c 192 § 6. Formerly RCW 18.57.020, 18.57.060, 18.57.070 and 18.57.090.]

**18.57.035 Postgraduate training licenses.** The board may grant approval to issue without examination a license to an osteopathic physician and surgeon in a board-approved postgraduate training program in this state if the applicant files an application and meets all the requirements for licensure set forth in RCW 18.57.020 except for completion of one year of postgraduate training. The secretary shall issue a postgraduate osteopathic medicine and surgery license that permits the

physician in postgraduate training to practice osteopathic medicine and surgery only in connection with his or her duties as a physician in postgraduate training and does not authorize the physician to engage in any other form of practice. Each physician in postgraduate training shall practice osteopathic medicine and surgery only under the supervision of a physician licensed in this state under this chapter or chapter 18.71 RCW, but such supervision shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the board of osteopathic medicine and surgery as set forth in this chapter and chapter 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application and renewal fee determined by the secretary as provided in RCW 43.70.250. Licenses issued hereunder may be renewed annually. Any person who obtains a license pursuant to this section may, apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter. [1991 c 160 § 9.]

**18.57.040 Licensing exemptions.** Nothing in this chapter shall be construed to prohibit:

- (1) Service in the case of emergency;
- (2) The domestic administration of family remedies;
- (3) The practice of midwifery as permitted under chapter 18.50 RCW;
- (4) The practice of osteopathic medicine and surgery by any commissioned medical officer in the United States government or military service or by any osteopathic physician and surgeon employed by a federal agency, in the discharge of his or her official duties;
- (5) Practice by a dentist licensed under chapter 18.32 RCW when engaged exclusively in the practice of dentistry;
- (6) Practice by any osteopathic physician and surgeon from any other state or territory in which he or she resides: PROVIDED, That such practitioners shall not open an office or appoint a place of meeting patients or receive calls within the limits of this state;
- (7) Practice by a person who is a student enrolled in an accredited school of osteopathic medicine and surgery approved by the board: PROVIDED, That the performance of such services be only pursuant to a course of instruction or assignments from his or her instructor or school, and such services are performed only under the supervision of a person licensed pursuant to this chapter or chapter 18.71 RCW;
- (8) Practice by an osteopathic physician and surgeon serving a period of clinical postgraduate medical training in a postgraduate program approved by the board: PROVIDED, That the performance of such services be only pursuant to a course of instruction in said program, and said services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW; or

(9) Practice by a person who is enrolled in a physician assistant program approved by the board who is performing such services only pursuant to a course of instruction in said program: PROVIDED, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW.

This chapter shall not be construed to apply in any manner to any other system or method of treating the sick or afflicted or to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer. [1991 c 160 § 5; 1919 c 4 § 19; RRS § 10071. FORMER PART OF SECTION: 1921 c 82 § 1, part; 1919 c 4 § 17, part; RRS § 10069, part, now codified in RCW 18.57.130.]

*Administering of drugs, inoculations, etc., by registered nurses permitted: RCW 18.88.290.*

*Midwifery: Chapter 18.50 RCW.*

**18.57.045 Inactive licenses.** A licensed osteopathic physician and surgeon who desires to leave the active practice of osteopathic medicine and surgery in this state may secure from the secretary an inactive license. The initial and renewal fees for an inactive license shall be determined by the secretary as provided in RCW 43.70.250. The holder of an inactive license may reactivate his or her license to practice osteopathic medicine and surgery in accordance with rules adopted by the board. [1991 c 160 § 4.]

**18.57.050 Fees—Renewal of licenses.** Each applicant on making application shall pay the secretary a fee determined by the secretary as provided in RCW 43.70.250. Application fees are nonrefundable. The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The secretary shall establish a renewal and late renewal penalty fee as provided in RCW 43.70.250. Failure to renew the license invalidates all privileges granted by the license. The board shall determine by rule when a license shall be canceled for failure to renew and shall establish prerequisites for relicensing. [1991 c 160 § 6; (1991 c 3 § 149 repealed by 1991 1st sp.s. c 11 § 2); 1985 c 7 § 55; 1979 c 117 § 12; 1975 1st ex.s. c 30 § 58; 1971 ex.s. c 266 § 11; 1919 c 4 § 6; RRS § 10058. Cf. 1909 c 192 § 7. Formerly RCW 18.57.050 and 18.57.120.]

**18.57.080 Examinations.** Applicants for a license to practice osteopathic medicine and surgery must successfully complete an examination prepared or approved by the board. The examination shall be conducted in the English language, shall determine the applicant's fitness to practice osteopathic medicine and surgery, and may be in whole or in part in writing or by practical application on those general subjects and topics of which knowledge is commonly and generally required of applicants who have obtained the doctor of osteopathic medicine and surgery conferred by accredited schools of osteopathic medicine and surgery approved by the board.

If an examination does not encompass the subject of osteopathic principles and practice, the applicant shall be required to complete the board-administered examination. The board may prepare and administer or approve preparation and administration of examinations on such subjects as the board deems advisable. The examination papers of any examination administered by the board shall form a part of the applicant's records and shall be retained as determined by the secretary for a period of not less than one year. All applicants for examination or reexamination shall pay a fee determined by the secretary as provided in RCW 43.70.250. [1991 c 160 § 7; (1991 c 3 § 150 repealed by 1991 1st sp.s. c 11 § 2); 1979 c 117 § 13; 1919 c 4 § 5; RRS § 10057. Cf. 1909 c 192 § 6. Formerly RCW 18.57.080 and 18.57.090, part.]

**18.57.085 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.57.130 Persons licensed by other states—Requirements—Fees.** Any person who meets the requirements of RCW 18.57.020 as now or hereafter amended and has been examined and licensed to practice osteopathic medicine and surgery by a state board of examiners of another state or the duly constituted authorities of another state authorized to issue licenses to practice osteopathic medicine and surgery upon examination, shall upon approval of the board be entitled to receive a license to practice osteopathic medicine and surgery in this state upon the payment of a fee determined by the secretary as provided in RCW 43.70.250 to the state treasurer and filing a copy of his or her license in such other state, duly certified by the authorities granting the license to be a full, true, and correct copy thereof, and certifying also that the standard of requirements adopted by such authorities as provided by the law of such state is substantially equal to that provided for by the provisions of this chapter: PROVIDED, That no license shall issue without examination to any person who has previously failed in an examination held in this state: PROVIDED, FURTHER, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this chapter: PROVIDED, FURTHER, That no one shall be permitted to practice surgery under this chapter who has not a license to practice osteopathic medicine and surgery. [1991 c 160 § 10; 1991 c 3 § 151; 1985 c 7 § 56; 1979 c 117 § 15; 1975 1st ex.s. c 30 § 59; 1921 c 82 § 1; 1919 c 4 § 17; RRS § 10069. Formerly RCW 18.57.010, 18.57.040, part, and 18.57.130.]

**Reviser's note:** This section was amended by 1991 c 3 § 151 and by 1991 c 160 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**18.57.145 Use of designations in combination with name.** No provision of this chapter or of any other law shall prevent any person who holds a valid, unrevoked certificate to practice osteopathic medicine and surgery from using in combination with his or her name the designation "Osteopathic Physician and Surgeon" or the

abbreviation of his or her professional degree, Doctor of Osteopathy (D.O.), provided he or she hold such professional degree, or any combination thereof upon his or her stationery, in any professional lists or directories or in other places where the same may properly appear as permitted within the canons of ethics approved by the board. [1991 c 160 § 8; 1959 c 110 § 2.]

## Chapter 18.57A

### OSTEOPATHIC PHYSICIANS' ASSISTANTS

#### Sections

18.57A.040 Osteopathic physician's assistants—Generally.

**18.57A.040 Osteopathic physician's assistants—Generally.** No osteopathic physician practicing in this state shall utilize the services of an osteopathic physician's assistant without the approval of the board.

Any osteopathic physician licensed in this state may apply to the board for permission to use the services of an osteopathic physician's assistant. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the osteopathic physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the osteopathic physician's assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a fee determined by the secretary as provided in RCW 43.70.250. Whenever it appears to the board that an osteopathic physician's assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with chapter 34.05 RCW. [1991 c 3 § 152. Prior: 1986 c 259 § 96; 1985 c 7 § 57; 1975 1st ex.s. c 30 § 60; 1971 ex.s. c 30 § 10.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Severability—1971 ex.s. c 30:** See note following RCW 18.71A.010.

## Chapter 18.59

### OCCUPATIONAL THERAPY

#### Sections

18.59.020	Definitions.
18.59.080	License issuance—Posting required.
18.59.090	Renewal of licenses—Reinstatement of suspended or revoked licenses—Inactive status.
18.59.110	Fees.
18.59.150	Board—Staff.

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

(1) "Board" means the board of occupational therapy practice.

(2) "Occupational therapy" is the scientifically based use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. The practice encompasses evaluation, treatment, and consultation. Specific occupational therapy services include but are not limited to: Using specifically designed activities and exercises to enhance neurodevelopmental, cognitive, perceptual motor, sensory integrative, and psychomotor functioning; administering and interpreting tests such as manual muscle and sensory integration; teaching daily living skills; developing prevocational skills and play and avocational capabilities; designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment; and adapting environments for the handicapped. These services are provided individually, in groups, or through social systems.

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision or with the regular consultation of an occupational therapist.

(5) "Occupational therapy aide" means a person who is trained to perform specific occupational therapy techniques under professional supervision as defined by the board but who does not perform activities that require advanced training in the sciences or practices involved in the profession of occupational therapy.

(6) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

(7) "Department" means the department of health.

(8) "Secretary" means the secretary of health. [1991 c 3 § 153; 1984 c 9 § 3.]

**18.59.080 License issuance—Posting required.** The secretary shall issue a license to a person who meets the licensing requirements of this chapter upon payment of the prescribed license fee. The license shall be posted in a conspicuous location at the person's work site. [1991 c 3 § 154; 1984 c 9 § 9.]

**18.59.090 Renewal of licenses—Reinstatement of suspended or revoked licenses—Inactive status.** (1) Licenses under this chapter shall be renewed at the time and in the manner determined by the secretary and with the payment of a renewal fee. The board shall establish requirements for license renewal which provide evidence of continued competency. The secretary may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules which may include additional continuing education or examination requirements.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any applicable late fee.

(3) Any occupational therapist or occupational therapy assistant licensed under this chapter not practicing occupational therapy or providing services may place his or her license in an inactive status. The secretary may prescribe requirements for maintaining an inactive status and converting from an inactive or active status. [1991 c 3 § 155; 1990 c 13 § 1; 1984 c 9 § 10.]

**18.59.110 Fees.** The secretary shall prescribe and publish fees in amounts determined by the secretary as provided in RCW 43.70.250 for the following purposes:

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

The fees shall be set in such an amount as to reimburse the state, to the extent feasible, for the cost of the services rendered. [1991 c 3 § 156; 1985 c 7 § 58; 1984 c 9 § 12.]

**18.59.150 Board—Staff.** The secretary shall provide such administrative and investigative staff as are necessary for the board to carry out its duties under this chapter. [1991 c 3 § 157; 1984 c 9 § 15.]

## Chapter 18.64 PHARMACISTS

Sections	
18.64.005	State board of pharmacy—Powers and duties.
18.64.043	Pharmacy license—Fee—Display—Declaration of ownership and location—Penalties.
18.64.045	Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties.
18.64.046	Wholesaler's license—Required—Authority of licensee—Penalty.
18.64.047	Itinerant vendor's or peddler's registration—Fee—Penalties.
18.64.140	License—Annual renewal—Fee—Penalty—Display—Inactive license.
18.64.205	Retired active license status.
18.64.275	Limitations on liability for dispensing of prescription.
18.64.350	Nonresident pharmacies—Findings.
18.64.360	Nonresident pharmacies—Definition—Requirements—Exemption.
18.64.370	Nonresident pharmacies—License required—Application—Renewal.
18.64.380	Nonresident pharmacies—Information required—Inspection.
18.64.390	Nonresident pharmacies—Violations—Penalties.
18.64.400	Nonresident pharmacies—Definition—Advertising.
18.64.410	Nonresident pharmacies—Rules.
18.64.420	Nonresident pharmacies—Information confidential—Exceptions.

**18.64.005 State board of pharmacy—Powers and duties.** The board shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of such board. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services,

the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers. [1990 c 83 § 1; 1989 1st ex.s. c 9 § 409; 1984 c 153 § 2; 1981 c 67 § 21; 1979 c 90 § 2; 1973 1st ex.s. c 18 § 2; 1963 c 38 § 18; 1935 c 98 § 3; RRS § 10132-2. Formerly RCW 43.69.030.]

**Section captions not law—1990 c 83:** "Section captions as used in this act do not constitute any part of the law." [1990 c 83 § 3.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Effective dates—Severability—1981 c 67:** See notes following RCW 34.12.010.

**18.64.043 Pharmacy license—Fee—Display—Declaration of ownership and location—Penalties.**

(1) The owner of each pharmacy shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve, for the period ending on a date to be determined by the secretary, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now or hereafter amended, file with the department on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein.

(2) It shall be the duty of the owner to immediately notify the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(3) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(4) In the event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1991 c 229 § 3; 1989 1st ex.s. c 9 § 414; 1984 c 153 § 4; 1979 c 90 § 8; 1971 ex.s. c 201 § 2; 1963 c 38 § 3; 1949 c 153 § 4; 1935 c 98 § 8; 1909 c 213 § 12; Rem. Supp. 1949 § 10145. Formerly RCW 18.67.020.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1971 ex.s. c 201:** See note following RCW 18.64.040.

**18.64.045 Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties.**

The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the secretary, and thereafter, on or before

a date to be determined by the secretary, a fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle the owner to manufacture drugs at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee. [1991 c 229 § 4; 1989 1st ex.s. c 9 § 416; 1984 c 153 § 6; 1979 c 90 § 9; 1971 ex.s. c 201 § 3; 1963 c 38 § 4; 1949 c 153 § 5; Rem. Supp. 1949 § 10154-4. Formerly RCW 18.67.140.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1971 ex.s. c 201:** See note following RCW 18.64.040.

**18.64.046 Wholesaler's license—Required—Authority of licensee—Penalty.** The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee. [1991 c 229 § 5; 1989 1st ex.s. c 9 § 417; 1984 c 153 § 7; 1979 c 90 § 18.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**18.64.047 Itinerant vendor's or peddler's registration—Fee—Penalties.** Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary. The department may issue a registration to such vendor on an approved application made to the department. Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. In event such registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon payment of the registration renewal fee and a penalty fee equal to the renewal fee. This registration shall not authorize the sale of legend drugs or controlled substances. [1991 c 229 § 6; 1989 1st ex.s. c 9 § 418; 1984 c 153 § 8; 1979 c 90 § 10; 1971 ex.s. c 201 § 4; 1963 c 38 § 5; 1949 c 153 § 3; 1935 c 98 § 7; 1899 c 121 § 16; Rem. Supp. 1949 § 10141. Formerly RCW 18.60.010 through 18.60.030.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1971 ex.s. c 201:** See note following RCW 18.64.040.

**18.64.140 License—Annual renewal—Fee—Penalty—Display—Inactive license.** Every licensed pharmacist who desires to practice pharmacy shall secure from the department a license, the fee for which shall be determined by the secretary. The renewal fee shall also be determined by the secretary. The date of renewal may be established by the secretary by regulation and the department may by regulation extend the duration of a licensing period for the purpose of staggering renewal periods. Such regulation may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of pharmacy board and department regulations. Pharmacists shall pay the license renewal fee and a penalty equal to the license renewal fee for the late renewal of their license. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the department an inactive license. The initial license and renewal fees shall be determined by the secretary. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the board. [1991 c 229 § 7; 1989 1st ex.s. c 9 § 421; 1984 c 153 § 11; 1979 c 90 § 12; 1971 ex.s. c 201 § 6; 1963 c 38 § 9; 1949 c 153 § 2; 1935 c 98 § 5; 1899 c 121 § 11; Rem. Supp. 1949 § 10136. Formerly RCW 18.64.140 and 18.64.150.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1971 ex.s. c 201:** See note following RCW 18.64.040.

**18.64.205 Retired active license status.** The board may adopt rules pursuant to this section authorizing a retired active license status. An individual licensed pursuant to this chapter, who is practicing only in emergent or intermittent circumstances as defined by rule established by the board, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250. Such a license shall meet the continuing education requirements, if any, established by the board for renewals, and is subject to the provisions of the uniform disciplinary act, chapter 18.130 RCW. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section. [1991 c 229 § 2.]

**18.64.275 Limitations on liability for dispensing of prescription.** (1) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed practitioner is not liable to a person who was injured through the use of the product, based on a claim of the following:

(a) Strict liability in tort; or

(b) Implied warranty provisions under the uniform commercial code Title 62 RCW.

(2) The limitation on pharmacist's liability as provided in subsection (1) of this section shall only apply if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules.

(3) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer issued by a licensed practitioner is liable to the claimant only if the claimant's harm was proximately caused by (a) the negligence of the pharmacist; (b) breach of an express warranty made by the pharmacist; or (c) the intentional misrepresentation of facts about the product by the pharmacist or the intentional concealment of information about the product by the pharmacist. A pharmacist shall not be liable for the product manufacturer's liability except as provided in RCW 7.72.040. [1991 c 189 § 1.]

**18.64.350 Nonresident pharmacies—Findings.** (1) The legislature finds and declares that the practice of pharmacy is a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug-related therapy.

(2) The legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payors and insurance companies the desire to control the cost and utilization of

pharmacy services through a variety of mechanisms, including the use of mail-order pharmacies located outside the state of Washington.

(3) As a result, the legislature finds and declares that to continue to protect the Washington consumer-patient, all out-of-state pharmacies that provide services to Washington residents shall be licensed by the department of health, disclose specific information about their services, and provide pharmacy services at a high level of protection and competence. [1991 c 87 § 1.]

**Effective date—1991 c 87:** "This act shall take effect October 1, 1991." [1991 c 87 § 15.]

**18.64.360 Nonresident pharmacies—Definition—Requirements—Exemption.** (1) For the purposes of this chapter any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state is a nonresident pharmacy, and shall be licensed by the department of health, and shall disclose to the department the following:

(a) The location, names, and titles of all owners including corporate officers and all pharmacists employed by the pharmacy who are dispensing controlled substances, legend drugs, or devices to residents of this state. A report containing this information shall be made on an annual basis and within ninety days after a change of location, corporate officer, or pharmacist;

(b) Proof of compliance with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the department of health under this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which it is located. As a prerequisite to be licensed by the department of health, the nonresident pharmacy shall submit a copy of the most recent inspection report issued by the regulatory licensing agency of the state in which it is located;

(c) Proof that it maintains its records of controlled substances, legend drugs, or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on the label affixed to each container of drugs dispensed to patients in this state.

(3) A pharmacy subject to this section shall comply with board rules regarding the maintenance and use of patient medication record systems.

(4) A pharmacy subject to this section shall comply with board of pharmacy rules regarding the provision of drug information to the patient. Drug information may be contained in written form setting forth directions for use and any additional information necessary to assure the proper utilization of the medication prescribed.

(5) A pharmacy subject to this section shall not dispense medication in a quantity greater than authorized by the prescriber.

(6) The license fee specified by the secretary, in accordance with the provisions of RCW 43.70.250, shall not exceed the fee charged to a pharmacy located in this state.

(7) The license requirements of this section apply to nonresident pharmacies that ship, mail, or deliver controlled substances, legend drugs, and devices into this state only under a prescription. The board of pharmacy may grant an exemption from licensing under this section upon application by an out-of-state pharmacy that restricts its dispensing activity in Washington to isolated transactions.

(8) Each nonresident pharmacy that ships, mails, or delivers legend drugs or devices into this state shall designate a resident agent in Washington for service of process. The designation of such an agent does not indicate that the nonresident pharmacy is a resident of Washington for tax purposes. [1991 c 87 § 2.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.370 Nonresident pharmacies—License required—Application—Renewal.** (1) A nonresident pharmacy that has not obtained a license from the department of health shall not conduct the business of selling or distributing drugs in this state.

(2) Applications for a nonresident pharmacy license under RCW 18.64.350 through 18.64.400 shall be made on a form furnished by the department. The department may require such information as it deems is reasonably necessary to carry out the purpose of RCW 18.64.350 through 18.64.400.

(3) The nonresident pharmacy license shall be renewed annually on a date to be established by the department by rule. In the event the license fee remains unpaid, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1991 c 87 § 3.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.380 Nonresident pharmacies—Information required—Inspection.** A nonresident pharmacy shall:

(1) Submit to the department, upon request, information acceptable to the secretary concerning controlled substances shipped, mailed, or delivered to a Washington resident.

(2) Submit to on-site inspection by the department of the nonresident pharmacy's prescription records if the information in subsection (1) of this section is not provided to the department upon request. [1991 c 87 § 4.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.390 Nonresident pharmacies—Violations—Penalties.** (1) The board may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for failure to comply with any requirement of RCW 18.64.350 through 18.64.400.

(2) The board may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for conduct that causes serious bodily or psychological injury to a resident of this state if the secretary has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and that regulatory or licensing agency fails to initiate an investigation within forty-five days of the referral under this subsection or fails to make a determination on the referral. [1991 c 87 § 5.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.400 Nonresident pharmacies—Definition—Advertising.** For the purposes of this chapter, a nonresident pharmacy is defined as any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state. It is unlawful for:

(1) Any nonresident pharmacy that is not licensed under RCW 18.64.350 through 18.64.400 to advertise its service in this state; or

(2) Any resident of this state to advertise the pharmaceutical services of a nonresident pharmacy with the knowledge that the nonresident pharmacy is not licensed by the department and that the advertisement will or is likely to induce persons within this state to use the nonresident pharmacy to fill prescriptions. [1991 c 87 § 6.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.410 Nonresident pharmacies—Rules.** The board may adopt rules to implement the provisions of RCW 18.64.350 through 18.64.400 and 18.64.420. [1991 c 87 § 11.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**18.64.420 Nonresident pharmacies—Information confidential—Exceptions.** All records, reports, and information obtained by the department from or on behalf of an entity licensed under chapter 48.20, 48.21, 48.44, or 48.46 RCW shall be confidential and exempt from inspection and copying under chapter 42.17 RCW. Nothing in this section restricts the investigation or the proceedings of the board or the department so long as the board and the department comply with the provisions of chapter 42.17 RCW. Nothing in this section or in chapter 42.17 RCW shall restrict the board or the department from complying with any mandatory reporting requirements that exist or may exist under federal law, nor shall the board or the department be restricted from providing to any person the name of any nonresident pharmacy that is or has been licensed or disciplined under RCW 18.64.350 through 18.64.400. [1991 c 87 § 12.]

**Effective date**—1991 c 87: See note following RCW 18.64.350.

**Chapter 18.64A**  
**PHARMACY ASSISTANTS**

## Sections

18.64A.065 Late renewal—Penalty.

**18.64A.065 Late renewal—Penalty.** If a pharmacy assistant allows his or her certificate to lapse by failing to renew on or before the date due, a renewal or new license may be issued only upon payment of the certification fee and a penalty fee equal to the original certification fee. [1991 c 229 § 10.]

**Chapter 18.71**  
**PHYSICIANS**

## Sections

18.71.010 Definitions.  
18.71.015 Board of medical examiners.  
18.71.030 Exemptions.  
18.71.040 Application—Fee.  
18.71.050 Application—Eligibility requirements—United States and Canadian graduates.  
18.71.051 Application—Eligibility requirements—Foreign graduates.  
18.71.080 License—Annual renewal—Continuing education requirement—Failure to renew, procedure.  
18.71.085 Inactive licenses—Renewal—Application of disciplinary provisions.  
18.71.095 Limited licenses.  
18.71.200 Physician's trained mobile intravenous therapy technicians, physician's trained mobile airway management technicians, physician's trained mobile intensive care paramedics—Definitions.  
18.71.205 Physician's trained intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Certification and recertification standards and requirements—"Approved medical program director" defined.  
18.71.212 Medical program directors—Certification.  
18.71.215 Medical program directors—Liability for acts or omissions of directors, delegates, or agents.

**18.71.010 Definitions.** The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the board of medical examiners.
- (2) "Secretary" means the secretary of health.
- (3) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18.71.055 and is serving a period of postgraduate clinical medical training sponsored by a college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term shall include individuals designated as intern or medical fellow.
- (4) "Emergency medical care" or "emergency medical service" has the same meaning as in chapter 18.73 RCW. [1991 c 3 § 158; 1988 c 104 § 1; 1979 c 158 § 51; 1975 1st ex.s. c 171 § 1; 1961 c 284 § 1; 1957 c 60 § 2. Prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

*Uniform anatomical gift act: Chapter 68.50 RCW.*

[1990-91 RCW Supp—page 242]

**18.71.015 Board of medical examiners.** There is hereby created a board of medical examiners consisting of six individuals licensed to practice medicine in the state of Washington, one individual who is licensed as a physician assistant under chapter 18.71A RCW, and two individuals who are not physicians, to be known as the Washington state board of medical examiners.

The board shall be appointed by the governor. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified.

Each member of the board shall be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The board shall meet as soon as practicable after appointment and elect a chair and a vice-chair from its members. Meetings shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary. A majority of the board members serving shall constitute a quorum for the transaction of board business.

It shall require the affirmative vote of a majority of a quorum of the board to carry any motion or resolution, to adopt any rule, or to pass any measure. A majority of the members appointed to a panel of the board shall constitute a quorum for the panel to transact business delegated to it by the board.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of health.

Any member of the board may be removed by the governor for neglect of duty, misconduct, or malfeasance or misfeasance in office.

Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor. [1991 c 44 § 1; 1991 c 3 § 159; 1990 c 196 § 11; 1987 c 116 § 1; 1984 c 287 § 44; 1979 c 158 § 52; 1975-'76 2nd ex.s. c 34 § 41; 1975 1st ex.s. c 171 § 2; 1961 c 284 § 2.]

**Reviser's note:** This section was amended by 1991 c 3 § 159 and by 1991 c 44 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

*Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.*

**18.71.030 Exemptions.** Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer;

nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, \*podiatry, optometry, naturopathy or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board, however, the performance of such services be only pursuant to a regular course of instruction or assignments from his or her instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the board, however, the performance of such services [shall] be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a licensed physician assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the board of medical examiners, however, a dentist allowed to administer

nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist and the medical disciplinary board shall have jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to the provisions of chapter 18.72 RCW and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained mobile intravenous therapy technician, by a physician's trained mobile airway management technician, or by a physician's trained mobile intensive care paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.88.295 and 28A.210.280. [1990 c 196 § 12; 1990 c 33 § 552; 1988 c 48 § 4; 1986 c 259 § 108; 1983 c 2 § 1. Prior: 1982 c 195 § 3; 1982 c 51 § 1; 1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

**Reviser's note:** \* (1) The term "podiatry" was changed to "podiatric medicine and surgery" by 1990 c 147.

(2) This section was amended by 1990 c 33 § 552 and by 1990 c 196 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Severability—1983 c 2:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 2 § 21.]

**Severability—1982 c 195:** See note following RCW 28A.210.260.

*Administering drugs, inoculations, etc., by registered nurses permitted:* RCW 18.88.290.

**18.71.040 Application—Fee.** Every applicant for a certificate to practice medicine and surgery shall pay a fee determined by the secretary as provided in RCW 43.70.250. [1991 c 3 § 160; 1985 c 322 § 1. Prior: 1975 1st ex.s. c 171 § 6; 1975 1st ex.s. c 30 § 61; 1955 c 202 § 35; prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

**18.71.050 Application—Eligibility requirements—United States and Canadian graduates.** (1) Each applicant who has graduated from a school of medicine located in any state, territory or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the secretary with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has attended and graduated from a school of medicine approved by the board;

(b) That the applicant has completed two years of postgraduate medical training in a program acceptable to the board, provided that applicants graduating before

July 28, 1985, may complete only one year of postgraduate medical training;

(c) That the applicant is of good moral character; and

(d) That the applicant is physically and mentally capable of safely carrying on the practice of medicine. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine.

(2) Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary. The issuance and denial of licenses are subject to chapter 18.130 RCW, the uniform disciplinary act. [1991 c 3 § 161. Prior: 1986 c 259 § 109; 1985 c 322 § 2; 1975 1st ex.s. c 171 § 7; 1961 c 284 § 5; 1957 c 60 § 3; prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

**Severability**—1986 c 259: See note following RCW 18.130.010.

**18.71.051 Application—Eligibility requirements—Foreign graduates.** Applicants for licensure to practice medicine who have graduated from a school of medicine located outside of the states, territories and possessions of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the secretary with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

(1) That he or she has completed in a school of medicine a resident course of professional instruction equivalent to that required in this chapter for applicants generally;

(2) That he or she meets all the requirements which must be met by graduates of the United States and Canadian school of medicine except that he or she need not have graduated from a school of medicine approved by the board;

(3) That he or she has satisfactorily passed the examination given by the educational council for foreign medical graduates or has met the requirements in lieu thereof as set forth in rules and regulations adopted by the board;

(4) That he or she has the ability to read, write, speak, understand, and be understood in the English language. [1991 c 3 § 162; 1975 1st ex.s. c 171 § 16.]

**18.71.080 License—Annual renewal—Continuing education requirement—Failure to renew, procedure.** Every person licensed to practice medicine in this state shall register with the secretary of health annually, and pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250. The board may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules and regulations shall provide that mandatory continuing education requirements may be met in part by physicians

showing evidence of the completion of approved activities relating to professional liability risk management. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the secretary, and payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250, together with all delinquent annual license renewal fees: **PROVIDED, HOWEVER,** That any person who fails to renew the license for a period of three years, shall in no event be entitled to renew the license under this section. Such a person in order to obtain a license to practice medicine in this state, shall file an original application as provided for in this chapter, along with the requisite fee therefor. The board, in its sole discretion, may permit such applicant to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine. [1991 c 195 § 1; 1991 c 3 § 163; 1985 c 322 § 4. Prior: 1979 c 158 §§ 53, 54, 55; 1975 1st ex.s. c 171 § 11; 1971 ex.s. c 266 § 12; 1955 c 202 § 36; prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

**Reviser's note:** This section was amended by 1991 c 3 § 163 and by 1991 c 195 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*Medical disciplinary assessment fee, payment annually:* RCW 18.72.380.

**18.71.085 Inactive licenses—Renewal—Application of disciplinary provisions.** The board may adopt rules pursuant to this section authorizing an inactive license status.

(1) An individual licensed pursuant to chapter 18.71 RCW may place his or her license on inactive status. The holder of an inactive license shall not practice medicine and surgery in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with rules established by the board.

(4) Provisions relating to disciplinary action against a person with a license shall be applicable to a person with an inactive license, except that when disciplinary proceedings against a person with an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1991 c 44 § 2.]

**18.71.095 Limited licenses.** The board may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The board may, upon the written request of the secretary of the department of social and health services or the secretary of corrections, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department of social

and health services or the department of corrections as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services or the department of corrections.

(2) The board may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of two years of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the board, the board may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his or her duties as a resident physician and shall not authorize the physician to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

(4)(a) Upon nomination by the dean of the school of medicine at the University of Washington or the chief executive officer of a hospital or other appropriate health care facility licensed in the state of Washington, the board may issue a limited license to a physician applicant invited to serve as a teaching–research member of the institution's instructional staff if the sponsoring institution and the applicant give evidence that he or she has graduated from a recognized medical school and has been licensed or otherwise privileged to practice medicine at his or her location of origin. Such license shall permit the recipient to practice medicine only within the confines of the instructional program specified in the application and shall terminate whenever the holder ceases to be involved in that program, or at the end of one year, whichever is earlier. Upon request of the applicant and the institutional authority, the license may be renewed for no more than a total of two years.

(b) Upon nomination by the dean of the school of medicine of the University of Washington or the chief executive officer of any hospital or appropriate health care facility licensed in the state of Washington, the

board may issue a limited license to an applicant selected by the sponsoring institution to be enrolled in one of its designated departmental or divisional fellowship programs provided that the applicant shall have graduated from a recognized medical school and has been granted a license or other appropriate certificate to practice medicine in the location of the applicant's origin. Such license shall permit the holder only to practice medicine within the confines of the fellowship program to which he or she has been appointed and, upon the request of the applicant and the sponsoring institution, the license may be renewed by the board for no more than a total of two years.

All persons licensed under this section shall be subject to the jurisdiction of the medical disciplinary board to the same extent as other members of the medical profession, in accordance with chapters 18.72 and 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application fee determined by the secretary as provided in RCW 43.70.250 and, in the event the license applied for is issued, a license fee at the rate provided for renewals of licenses generally. Licenses issued hereunder may be renewed annually pursuant to the provisions of RCW 18.71.080. Any person who obtains a limited license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter. [1991 c 3 § 164; 1990 c 160 § 1; 1987 c 129 § 1. Prior: 1986 c 259 § 110; 1985 c 322 § 6; 1975 1st ex.s. c 171 § 13; 1973 1st ex.s. c 4 § 1; 1967 c 138 § 1; 1965 c 29 § 1; 1959 c 189 § 1.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.71.200 Physician's trained mobile intravenous therapy technicians, physician's trained mobile airway management technicians, physician's trained mobile intensive care paramedics—Definitions.** (1) As used in this chapter, a "physician's trained mobile intravenous therapy technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director to administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile intravenous therapy technician by the University of Washington's school of medicine or the department of health;

(2) As used in this chapter, a "physician's trained mobile airway management technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile airway management technician by the University of Washington's school of medicine or the department of health; and

(3) As used in this chapter, a "physician's trained mobile intensive care paramedic" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director:

(i) To carry out all phases of advanced cardiac life support;

(ii) To administer drugs under written or oral authorization of an approved licensed physician; and

(iii) To administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(iv) To perform endotracheal airway management and other authorized aids to ventilation; and

(c) Has been examined and certified as a physician's trained mobile intensive care paramedic by the University of Washington's school of medicine or by the department of health. [1991 c 3 § 165; 1986 c 259 § 111; 1983 c 112 § 1; 1977 c 55 § 2; 1973 1st ex.s. c 52 § 1; 1971 ex.s. c 305 § 2.]

**Severability**—1986 c 259: See note following RCW 18.130.010.

**Effective date**—1973 1st ex.s. c 52: See note following RCW 43.22.010.

**18.71.205 Physician's trained intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Certification and recertification standards and requirements**—"Approved medical program director" defined. (1) The secretary of the department of health, in conjunction with the advice and assistance of the emergency medical services licensing and certification advisory committee as prescribed in RCW 18.73.050, and the board of medical examiners, shall prescribe:

(a) Minimum standards and performance requirements for the certification and recertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics; and

(b) Procedures for certification, recertification, and decertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics.

(2) Initial certification shall be for a period of two years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of two years.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council. [1990 c 269 § 18; 1986 c 68 § 1; 1983 c 112 § 2; 1977 c 55 § 3.]

**Severability**—1990 c 269: See RCW 70.168.901.

**18.71.212 Medical program directors—Certification.** The secretary of the department of health, in conjunction with the state emergency medical services and trauma care committee, shall evaluate, certify and terminate certification of medical program directors, and prescribe minimum standards defining duties and responsibilities and performance of duties and responsibilities. [1990 c 269 § 19; 1986 c 68 § 2.]

**Severability**—1990 c 269: See RCW 70.168.901.

**18.71.215 Medical program directors—Liability for acts or omissions of directors, delegates, or agents.** The department of health shall defend and hold harmless approved medical program directors, delegates, or agents for any act or omission committed or omitted in good faith in the performance of his or her duties. [1990 c 269 § 20; 1986 c 68 § 5; 1983 c 112 § 4.]

**Severability**—1990 c 269: See RCW 70.168.901.

## Chapter 18.71A PHYSICIAN ASSISTANTS

### Sections

18.71A.010	Definitions.
18.71A.020	Board to adopt rules fixing qualifications and restricting practice—Contents.
18.71A.030	Limitations on practice by physician assistants.
18.71A.040	Physician's application for physician assistant—Fee—Approval or rejection by board—Hearing.
18.71A.050	Physician's liability, responsibility.
18.71A.060	Limitations on health care services.
18.71A.070	Medical practice investigator—Appointment—Powers and duties.
18.71A.080	Repealed.
18.71A.085	Performance of acupuncture.

**18.71A.010 Definitions.** (1) "Physician assistant" means a person who is licensed by the board to practice medicine to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(2) "Board" means the board of medical examiners.

(3) "Practice medicine" shall have the meaning defined in RCW 18.71.011.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Department" means the department of health. [1990 c 196 § 1; 1988 c 113 § 1; 1975 1st ex.s. c 190 § 1; 1971 ex.s. c 30 § 1.]

**Severability**—1971 ex.s. c 30: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 30 § 13.]

**18.71A.020 Board to adopt rules fixing qualifications and restricting practice—Contents.** (1) The board shall adopt rules fixing the qualifications and the educational and training requirements for persons who may be employed as physician assistants or who may be enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the board and eligibility to take an examination approved by the board, provided such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. Physician assistants licensed by the board on June 7, 1990, shall continue to be licensed.

(2)(a) The board shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered. [1990 c 196 § 2; 1971 ex.s. c 30 § 2.]

**18.71A.030 Limitations on practice by physician assistants.** A physician assistant as defined in this chapter may practice medicine in this state only after authorization by the board and only to the extent permitted by the board. A physician assistant shall be subject to discipline under chapter 18.130 RCW. [1990 c 196 § 3; 1971 ex.s. c 30 § 3.]

**18.71A.040 Physician's application for physician assistant—Fee—Approval or rejection by board—Hearing.** No physician practicing in this state shall employ or supervise a physician assistant without the approval of the board.

Any physician licensed in this state may apply to the board for permission to employ or supervise a physician assistant. The application shall be jointly submitted by the physician and physician assistant and shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. The joint application shall detail the manner and extent to which the physician assistant would practice and be supervised, shall detail the education, training, and experience of the physician assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed practice of the physician assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed upon payment of a fee determined by the secretary as provided in RCW 43.70.250. Whenever it appears to the board that a physician assistant is practicing in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with chapter 18.130 RCW. [1990 c 196 § 4. Prior: 1986 c 259 § 113; 1985 c 7 § 61; 1975 1st ex.s. c 30 § 64; 1975 1st ex.s. c 190 § 2; 1971 ex.s. c 30 § 4.]

**Severability**—1986 c 259: See note following RCW 18.130.010.

**18.71A.050 Physician's liability, responsibility.** No physician who supervises a physician assistant in accordance with and within the terms of any permission granted by the medical examining board shall be considered as aiding and abetting an unlicensed person to practice medicine: PROVIDED, HOWEVER, That any physician shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in \*RCW 18.71.010 when performed by a physician assistant in the physician's employ. [1990 c 196 § 5; 1986 c 259 § 114; 1971 ex.s. c 30 § 5.]

\*Reviser's note: The practice of medicine is defined in RCW 18.71.011.

**Severability**—1986 c 259: See note following RCW 18.130.010.

**18.71A.060 Limitations on health care services.** No health care services may be performed under this chapter in any of the following areas:

(1) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) Nothing in this section shall preclude the performance of routine visual screening.

(5) The practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW respectively. The exemptions set forth in RCW 18.32.030, paragraphs (1) and (8), shall not apply to a physician assistant.

(6) The practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine.

(7) The practice of \*podiatry as defined in chapter 18.22 RCW. [1990 c 196 § 6; 1973 c 77 § 21; 1971 ex.s. c 30 § 6.]

\*Reviser's note: The term "podiatry" was changed to "podiatric medicine and surgery" by 1990 c 147.

**18.71A.070 Medical practice investigator—Appointment—Powers and duties.** There shall be appointed by the secretary an agent whose title shall be "medical practice investigator", who shall have the duty and shall be authorized to enter the clinic, office, or premises where a physician assistant is employed for the purpose of inspecting the registration and utilization of any physician assistant employed therein. Said investigator may serve and execute any notice or process issued under the authority of this chapter and shall perform any other duty prescribed by the secretary or the board, including assisting other agencies in enforcing the provisions of the law regulating the practice of medicine. [1990 c 196 § 7; 1979 c 158 § 58; 1975 1st ex.s. c 190 § 3.]

**18.71A.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.71A.085 Performance of acupuncture.** Any physician assistant acupuncturist currently licensed by the board may continue to perform acupuncture under the physician assistant license as long as he or she maintains licensure as a physician assistant. [1990 c 196 § 10.]

## Chapter 18.72

### MEDICAL DISCIPLINARY BOARD

#### Sections

18.72.040	Repealed.
18.72.045	Medical disciplinary board.
18.72.050	Repealed.
18.72.055	Repealed.
18.72.060	Repealed.
18.72.070	Repealed.
18.72.080	Repealed.
18.72.100	Compensation and reimbursement of members.
18.72.120	Organization of first board.
18.72.155	Executive secretary—Staff.
18.72.306	Impaired physician program—License surcharge.
18.72.345	Access to driving records of physicians and physician assistants.
18.72.380	Medical disciplinary assessment fee.
18.72.390	Medical disciplinary account—Purpose.
18.72.400	Allocation of all appropriated funds.

**18.72.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.045 Medical disciplinary board.** There is hereby created the Washington state medical disciplinary board. The board shall be composed of one holder of a valid license to practice medicine and surgery under this chapter from each congressional district now existing or hereafter created in the state, four members representing the public, and one physician assistant authorized to practice under chapter 18.71A RCW. The physician assistant member shall vote only on matters relating to the discipline of physician assistants. The members of the board shall be appointed by the governor. The governor may stagger initial terms of appointment and thereafter all terms of appointment shall be

for four years. The governor shall consider such physician and physician assistant members who are recommended for appointment by the appropriate professional associations in the state. The members representing the public shall be persons whose occupations are other than the administration of health activities or the providing of health services, who have no fiduciary obligations to a health facility or other health agency, and who have no material financial interest in the rendering of health services.

Nothing in this section shall affect the current terms of members of the board who are serving on the board on July 28, 1991.

Vacancies on the board shall be filled promptly by the governor, and a member appointed to fill a vacancy on the board shall continue to serve until his or her successor is appointed.

The terms of office of members of the board shall not be affected by changes in congressional district boundaries.

The board shall be an administrative agency of the state of Washington. The attorney general shall be the advisor to the board and shall represent it in legal proceedings. [1991 c 215 § 1.]

**18.72.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.055 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.72.100 Compensation and reimbursement of members.** Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be repaid their travel expenses while engaged in business of the board in accordance with RCW 43.03.050 and 43.03.060. Such compensation and reimbursement for expenses shall be paid out of the general fund on vouchers approved by the secretary of health. [1991 c 3 § 166; 1984 c 287 § 45; 1979 ex.s. c 111 § 3; 1979 c 158 § 59; 1975-'76 2nd ex.s. c 34 § 42; 1955 c 202 § 10.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Severability—1979 ex.s. c 111:** See note following RCW 18.72.060.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**18.72.120 Organization of first board.** The first board shall be organized in this manner: Within ten days after the effective date of this chapter the secretary of health shall appoint five holders of licenses to practice medicine and surgery in this state to serve as members of a temporary commission which shall, within ninety days thereafter, organize and hold the election to name the first members of the medical disciplinary board. The temporary commission shall adopt such rules as it deems necessary to govern the holding of the first election. After the election is completed and the first members of the board have qualified and taken office, the temporary commission shall be abolished and all of its records shall be turned over to the board. [1991 c 3 § 167; 1955 c 202 § 12.]

**18.72.155 Executive secretary—Staff.** The secretary of the department of health shall appoint, from a list of three names supplied by the board, an executive secretary who shall act to carry out the provisions of this chapter. The secretary shall also employ such additional staff including administrative assistants, investigators, and clerical staff as are required to enable the board to accomplish its duties and responsibilities. The executive secretary shall be exempt from the provisions of the civil service law, chapter 41.06 RCW, as now or hereafter amended. [1991 c 3 § 168; 1979 ex.s. c 111 § 6.]

**Severability—1979 ex.s. c 111:** See note following RCW 18.72.060.

**18.72.306 Impaired physician program—License surcharge.** (1) The board shall enter into a contract with the committee to implement an impaired physician program. The impaired physician program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired physicians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the board;
- (f) Providing post-treatment monitoring and support of rehabilitative impaired physicians;
- (g) Performing such other activities as agreed upon by the board and the committee; and
- (h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to twenty-five dollars on each license renewal or issuance of a new license to be collected by the department of health from every physician and surgeon licensed under chapter 18.71 RCW in addition to other license fees and the medical discipline assessment fee established under RCW 18.72.380. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired physician program. [1991 c 3 § 169; 1989 c 119 § 2; 1987 c 416 § 2.]

**Effective date—1987 c 416:** See note following RCW 18.72.301.

**18.72.345 Access to driving records of physicians and physician assistants.** To assist in identifying impairment related to alcohol abuse, the board may obtain a copy of the driving record of a physician or a physician assistant maintained by the department of licensing. [1991 c 215 § 2.]

**18.72.380 Medical disciplinary assessment fee.** There is hereby levied to be collected by the department of health from every physician and surgeon licensed pursuant to chapter 18.71 RCW an annual medical disciplinary assessment equal to the license renewal fee established under RCW 43.70.250. The assessment levied pursuant to this subsection is in addition to any license renewal fee established under RCW 43.70.250. [1991 c 3 § 170; 1985 c 7 § 62; 1983 c 71 § 1.]

**18.72.390 Medical disciplinary account—Purpose.** Because it is the express purpose of this chapter to protect the public health and to provide for a public agency to act as a disciplinary body for members of the medical profession licensed to practice medicine and surgery in this state, and because the health and well-being of the people of this state are of paramount importance, there is hereby created an account in the state treasury to be known as the medical disciplinary account. All assessments, fines, and other funds collected or received pursuant to this chapter shall be deposited in the medical disciplinary account and used to administer and implement this chapter. [1991 1st sp.s. c 13 § 17; 1985 c 57 § 6; 1983 c 71 § 2.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**18.72.400 Allocation of all appropriated funds.** The secretary of health shall allocate all appropriated funds to accomplish the purposes of this chapter. [1991 c 3 § 171; 1983 c 71 § 3.]

## Chapter 18.73

### EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections	
18.73.010	Legislative finding.
18.73.030	Definitions.
18.73.040	Emergency medical services licensing and certification advisory committee. (Effective until June 30, 1993.)
18.73.050	Emergency medical services licensing and certification advisory committee—Duties—Review of rules. (Effective until June 30, 1993.)
18.73.060	Recodified as RCW 70.168.110.
18.73.070	Repealed.
18.73.073	Recodified as RCW 70.168.120.
18.73.081	Duties of secretary—Minimum requirements to be prescribed.
18.73.085	Recodified as RCW 70.168.130.
18.73.130	Ambulance operator, ambulance director, aid vehicle operator or aid director licenses—Required—Exceptions—Duration—Renewal.
18.73.920	Emergency medical services committee—Termination.
18.73.921	Emergency medical services committee—Repeal.

**18.73.010 Legislative finding.** The legislature finds that a state-wide program of emergency medical care is necessary to promote the health, safety, and welfare of the citizens of this state. The intent of the legislature is to assure minimum standards and training for first responders and emergency medical technicians, and minimum standards for ambulance services, ambulances, aid vehicles, aid services, and emergency medical equipment. [1990 c 269 § 22; 1988 c 104 § 2; 1987 c 214 § 1; 1973 1st ex.s. c 208 § 1.]

Severability—1990 c 269: See RCW 70.168.901.

**18.73.030 Definitions.** Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the meanings indicated.

(1) "Secretary" means the secretary of the department of health.

(2) "Department" means the department of health.

(3) "Committee" means the emergency medical services licensing and certification advisory committee.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(6) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081.

(7) "Ambulance operator" means a person who owns one or more ambulances and operates them as a private business.

(8) "Ambulance director" means a person who is a director of a service which operates one or more ambulances provided by a volunteer organization or governmental agency.

(9) "Aid vehicle operator" means a person who owns one or more aid vehicles and operates them as a private business.

(10) "Aid director" means a person who is a director of a service which operates one or more aid vehicles provided by a volunteer organization or governmental agency.

(11) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(12) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(13) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient

which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed state-wide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

(14) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with state-wide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

(15) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(16) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

(17) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

(18) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(19) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081. [1990 c 269 § 23; 1988 c 104 § 3; 1987 c 214 § 2; 1983 c 112 § 5; 1979 ex.s. c 261 § 1; 1973 1st ex.s. c 208 § 3.]

Severability—1990 c 269: See RCW 70.168.901.

**18.73.040 Emergency medical services licensing and certification advisory committee.** (Effective until June 30, 1993.) There is created an emergency medical services licensing and certification advisory committee of eleven members to be appointed by the department. Members of the committee shall be composed of a balance of physicians, one of whom is an emergency medical services medical program director, and individuals regulated under RCW 18.71.205 and 18.73.081, an administrator from a city or county emergency medical services system, a member of the emergency medical services and trauma care steering committee, and one consumer. All members except the consumer shall be knowledgeable in specific and general aspects of emergency medical services. Members shall be appointed for a period of three years. The terms of those members representing the same field shall not expire at the same time.

The committee shall elect a chairman and a vice chairman whose terms of office shall be for one year each. The chairman shall be ineligible for reelection after serving four consecutive terms.

The committee shall meet on call by the secretary or the chairman.

All appointive members of the committee, in the performance of their duties, may be entitled to receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1990 c 269 § 6; 1984 c 279 § 55; 1981 c 338 § 13; 1979 ex.s. c 261 § 2; 1975-'76 2nd ex.s. c 34 § 43; 1973 1st ex.s. c 208 § 4.]

**Severability**—1990 c 269: See RCW 70.168.901.

**Severability**—1984 c 279: See RCW 18.130.901.

**Effective date**—**Severability**—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

**18.73.050 Emergency medical services licensing and certification advisory committee—Duties—Review of rules.** (Effective until June 30, 1993.) The emergency medical services licensing and certification advisory committee shall:

(1) Review all administrative rules pertaining to licensing and certification of emergency medical services proposed for adoption by the department under this chapter or under RCW 18.71.205 and advise the department of its recommendations.

(2) Assist the department, at the department's request, to fulfill any duty or exercise any power under this chapter pertaining to emergency medical services licensing and certification. [1990 c 269 § 7; 1987 c 214 § 3; 1979 ex.s. c 261 § 3; 1973 1st ex.s. c 208 § 5.]

**Severability**—1990 c 269: See RCW 70.168.901.

**18.73.060 Recodified as RCW 70.168.110.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.73.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.73.073 Recodified as RCW 70.168.120.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.73.081 Duties of secretary—Minimum requirements to be prescribed.** In addition to other duties prescribed by law, the secretary shall:

(1) Prescribe minimum requirements for:

(a) Ambulance, air ambulance, and aid vehicles and equipment;

(b) Ambulance and aid services; and

(c) Minimum emergency communication equipment;

(2) Adopt procedures for services that fail to perform in accordance with minimum requirements;

(3) Prescribe minimum standards for first responder and emergency medical technician training including:

(a) Adoption of curriculum and period of certification;

(b) Procedures for certification, recertification, decertification, or modification of certificates: PROVIDED, That there shall be no practical examination for recertification if the applicant received a passing grade on the state written examination and completed a program of ongoing training and evaluation, approved in rule by the county medical program director and the secretary;

(c) Procedures for reciprocity with other states or national certifying agencies;

(d) Review and approval or disapproval of training programs; and

(e) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;

(4) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and

(5) Certify emergency medical program directors. [1990 c 269 § 24; 1988 c 111 § 1; 1987 c 214 § 7.]

**Severability**—1990 c 269: See RCW 70.168.901.

**18.73.085 Recodified as RCW 70.168.130.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.73.130 Ambulance operator, ambulance director, aid vehicle operator or aid director licenses—Required—Exceptions—Duration—Renewal.** An ambulance operator, ambulance director, aid vehicle operator or aid director may not operate a service in the state of Washington without holding a license for such operation, issued by the secretary when such operation is consistent with the state-wide and regional emergency medical services and trauma care plans established pursuant to chapter 70.168 RCW, indicating the general area to be served and the number of vehicles to be used, with the following exceptions:

(1) The United States government;

(2) Ambulance operators and ambulance directors providing service in other states when bringing patients into this state;

(3) Owners of businesses in which ambulance or aid vehicles are used exclusively on company property but occasionally in emergencies may transport patients to hospitals not on company property; and

(4) Operators of vehicles pressed into service for transportation of patients in emergencies when licensed ambulances are not available or cannot meet overwhelming demand.

The license shall be valid for a period of three years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable. [1990 c 269 § 25; 1987 c 214 § 10; 1979 ex.s. c 261 § 13; 1979 c 158 § 61; 1973 1st ex.s. c 208 § 13.]

**Severability**—1990 c 269: See RCW 70.168.901.

**Effective date**—1973 1st ex.s. c 208: See RCW 18.73.910.

**18.73.920 Emergency medical services committee—Termination.** The emergency medical services committee and its powers and duties shall be terminated on June 30, 1992, as provided in RCW 18.73.921. [1990 c 297 § 5; 1988 c 288 § 6; 1986 c 270 § 5; 1983 c 197 § 25. Formerly RCW 43.131.303.]

**18.73.921 Emergency medical services committee—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1993:

(1) Section 4, chapter 208, Laws of 1973 1st ex. sess., section 43, chapter 34, Laws of 1975-'76 2nd ex. sess., section 2, chapter 261, Laws of 1979 ex. sess., section 13, chapter 338, Laws of 1981, section 55, chapter 279, Laws of 1984 and RCW 18.73.040; and

(2) Section 5, chapter 208, Laws of 1973 1st ex. sess., section 3, chapter 261, Laws of 1979 ex. sess., section 3, chapter 214, Laws of 1987 and RCW 18.73.050. [1990 c 297 § 6; 1988 c 288 § 7; 1986 c 270 § 6; 1983 c 197 § 51. Formerly RCW 43.131.304.]

## Chapter 18.74 PHYSICAL THERAPY

### Sections

18.74.010	Definitions.
18.74.012	Consultation with health care practitioner not required for certain treatments.
18.74.020	Board created—Members—Staff assistance—Compensation and travel expenses.
18.74.023	Board—Powers and duties. (Effective until January 1, 1992.)
18.74.023	Board—Powers and duties. (Effective January 1, 1992.)
18.74.025	Standards for appropriateness of physical therapy care—Violation.
18.74.035	Examinations—Scope—Time and place.
18.74.040	Licenses.
18.74.050	Licenses—Fees.
18.74.060	Licensure by endorsement.
18.74.070	Renewal of license—Lapsed license—Fees.
18.74.090	False advertising—Use of name and words—License required—Prosecutions of violations.
18.74.095	False advertising—Injunctions.
18.74.120	Record of proceedings—Register.
18.74.140	Practice setting not restricted.

**18.74.010 Definitions.** Unless the context otherwise requires, the definitions in this section apply throughout this chapter.

(1) "Board" means the board of physical therapy created by RCW 18.74.020.

(2) "Department" means the department of health.

(3) "Physical therapy" means the treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, cold, air, light, water, electricity, sound, massage, and therapeutic exercise, which includes posture and rehabilitation procedures; the performance of tests and measurements of neuromuscular function as an aid to the diagnosis or treatment of any human condition; performance of treatments on the basis of test findings after consultation with and periodic review by an authorized

health care practitioner except as provided in RCW 18.74.012; supervision of selective forms of treatment by trained supportive personnel; and provision of consultative services for health, education, and community agencies. The use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(4) "Physical therapist" means a person who practices physical therapy as defined in this chapter but does not include massage operators as defined in RCW 18.108.010.

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

(6) Words importing the masculine gender may be applied to females.

(7) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, \*podiatrists, and dentists: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws. [1991 c 12 § 1; (1991 c 3 §§ 172, 173 repealed by 1991 1st sp.s. c 11 § 2); (1990 c 297 § 17 repealed by 1991 c 12 § 6); 1988 c 185 § 1; 1983 c 116 § 2; 1961 c 64 § 1; 1949 c 239 § 1; Rem. Supp. 1949 § 10163-1.]

**\*Reviser's note:** The term "podiatrists" was changed to "podiatric physicians and surgeons" by 1990 c 147.

**Effective dates—1991 c 12 §§ 1, 2, 3, 6:** "(1) Sections 1, 2, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1991.

(2) Section 3 of this act shall take effect January 1, 1992." [1991 c 12 § 7.]

*Number and gender: RCW 1.12.050.*

**18.74.012 Consultation with health care practitioner not required for certain treatments.** Notwithstanding the provisions of \*RCW 18.74.010(4), a consultation and periodic review by an authorized health care practitioner is not required for treatment of neuromuscular or musculoskeletal conditions: PROVIDED, That a physical therapist may only provide treatment utilizing orthoses that support, align, prevent, or correct any structural problems intrinsic to the foot or ankle by referral or consultation from an authorized health care practitioner. [1991 c 12 § 2; 1990 c 297 § 19; 1988 c 185 § 2.]

**\*Reviser's note:** RCW 18.74.010 was amended by 1991 c 12 § 1 and subsection (4) was renumbered (3).

**Effective dates—1991 c 12 §§ 1, 2, 3, 6:** See note following RCW 18.74.010.

**18.74.020 Board created—Members—Staff assistance—Compensation and travel expenses.** The state board of physical therapy is hereby created. The board shall consist of five members who shall be appointed by the governor. Of the initial appointments, two shall be appointed for a term of two years, two for a term of three years, and one for a term of four years. Thereafter, all appointments shall be for terms of four years. Four

members of the board shall be physical therapists licensed under this chapter and residing in this state, shall have not less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. The fifth member shall be appointed from the public at large, shall have an interest in the rights of consumers of health services, and shall not be or have been a member of any other licensing board, a licensee of any health occupation board, an employee of any health facility nor derive his or her primary livelihood from the provision of health services at any level of responsibility. In the event that a member of the board for any reason cannot complete his or her term of office, another appointment shall be made by the governor in accordance with the procedure stated above to fill the remainder of the term. No member may serve for more than two successive four-year terms.

The secretary of health shall furnish such secretarial, clerical and other assistance as the board may require. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060, be compensated in accordance with RCW 43.03.240. [1991 c 3 § 174; 1984 c 287 § 46; 1983 c 116 § 3; 1979 c 158 § 62; 1975-'76 2nd ex.s. c 34 § 44; 1949 c 239 § 2; Rem. Supp. 1949 § 10163-2.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Severability—Effective date—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

*Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.*

**18.74.023 Board—Powers and duties. (Effective until January 1, 1992.)** The board has the following powers and duties:

(1) To administer examinations to applicants for a license under this chapter.

(2) To pass upon the qualifications of applicants for a license and to certify to the secretary duly qualified applicants.

(3) To make such rules not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter.

(4) To establish and administer requirements for continuing professional education as may be necessary or proper to ensure the public health and safety and which may be a prerequisite to granting and renewing a license under this chapter.

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

(6) To adopt rules not inconsistent with the laws of this state, when it deems appropriate, in response to questions put to it by professional health associations, physical therapists, and consumers in this state concerning the authority of physical therapists to perform particular acts. [1991 c 3 § 175; 1986 c 259 § 124; 1983 c 116 § 4.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.74.023 Board—Powers and duties. (Effective January 1, 1992.)** The board has the following powers and duties:

(1) To administer examinations to applicants for a license under this chapter.

(2) To pass upon the qualifications of applicants for a license and to certify to the secretary duly qualified applicants.

(3) To make such rules not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter.

(4) To establish and administer requirements for continuing competency, which shall be a prerequisite to renewing a license under this chapter.

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

(6) To adopt rules not inconsistent with the laws of this state, when it deems appropriate, in response to questions put to it by professional health associations, physical therapists, and consumers in this state concerning the authority of physical therapists to perform particular acts. [1991 c 12 § 3; 1991 c 3 § 175; 1986 c 259 § 124; 1983 c 116 § 4.]

**Reviser's note:** This section was amended by 1991 c 3 § 175 and by 1991 c 12 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective dates—1991 c 12 §§ 1, 2, 3, 6:** See note following RCW 18.74.010.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.74.025 Standards for appropriateness of physical therapy care—Violation.** Pursuant to the board's power in RCW 18.74.023(3), the board is directed to adopt rules relating to standards for appropriateness of physical therapy care. Violation of the standards adopted by rule under this section is unprofessional conduct under this chapter and chapter 18.130 RCW. [1991 c 12 § 5.]

**18.74.035 Examinations—Scope—Time and place.** All qualified applicants for a license as a physical therapist shall be examined by the board at such time and place as the board may determine. The examination shall embrace the following subjects: The applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics; physical therapy, as defined in this chapter, applied to medicine, neurology, orthopedics, pediatrics, psychiatry, surgery; medical ethics; technical procedures in the practice of physical therapy as defined in this chapter; and such other subjects as the board may deem useful to test the applicant's fitness to practice physical therapy, but not including the adjustment or manipulation of the spine or use of a thrusting force as mobilization. Examinations shall be held within the state at least once a year, at such time and place as the board shall determine. An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee determined by the secretary. [1991 c 3 § 176; 1983 c 116 § 7; 1961 c 64 § 3.]

**18.74.040 Licenses.** The secretary of health shall license as a physical therapist, and shall furnish a license to each applicant who successfully passes the examination for licensure as a physical therapist. [1991 c 3 § 177; 1983 c 116 § 8; 1949 c 239 § 4; Rem. Supp. 1949 § 10163-4.]

**18.74.050 Licenses—Fees.** The secretary shall furnish a license upon the authority of the board to any person who applies and who has qualified under the provisions of this chapter. At the time of applying, the applicant shall pay to the state treasurer a fee determined by the secretary as provided in RCW 43.70.250. No person registered or licensed on July 24, 1983, as a physical therapist shall be required to pay an additional fee for a license under this chapter. [1991 c 3 § 178; 1985 c 7 § 63; 1983 c 116 § 9; 1975 1st ex.s. c 30 § 65; 1961 c 64 § 4; 1949 c 239 § 5; Rem. Supp. 1949 § 10163-5.]

**18.74.060 Licensure by endorsement.** Upon the recommendation of the board, the secretary shall license as a physical therapist and shall furnish a license to any person who is a physical therapist registered or licensed under the laws of another state or territory, or the District of Columbia, if the qualifications for such registration or license required of the applicant were substantially equal to the requirements under this chapter. At the time of making application, the applicant shall pay to the state treasurer a fee determined by the secretary as provided in RCW 43.70.250. [1991 c 3 § 179; 1985 c 7 § 64; 1983 c 116 § 10; 1975 1st ex.s. c 30 § 66; 1961 c 64 § 5; 1949 c 239 § 6; Rem. Supp. 1949 § 10163-6.]

**18.74.070 Renewal of license—Lapsed license—Fees.** Every licensed physical therapist shall apply to the secretary for a renewal of the license and pay to the state treasurer a fee determined by the secretary as provided in RCW 43.70.250. The license of a physical therapist who fails to renew the license within thirty days of the date set by the secretary for renewal shall automatically lapse. Within three years from the date of lapse and upon the recommendation of the board, the secretary may revive a lapsed license upon the payment of all past unpaid renewal fees and a penalty fee to be determined by the secretary. The board may require reexamination of an applicant whose license has lapsed for more than three years and who has not continuously engaged in lawful practice in another state or territory, or waive reexamination in favor of evidence of continuing education satisfactory to the board. [1991 c 3 § 180; 1983 c 116 § 12; 1975 1st ex.s. c 30 § 67; 1971 ex.s. c 266 § 13; 1961 c 64 § 6; 1949 c 239 § 7; Rem. Supp. 1949 § 10163-7.]

**18.74.090 False advertising—Use of name and words—License required—Prosecutions of violations.** A person who is not licensed with the secretary of health as a physical therapist under the requirements of this chapter shall not represent him or herself as being

so licensed and shall not use in connection with his or her name the words or letters "P.T.", "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical therapist" or "physiotherapist", or any other letters, words, signs, numbers, or insignia indicating or implying that he or she is a physical therapist. No person may practice physical therapy without first having a valid license. Nothing in this chapter prohibits any person licensed in this state under any other act from engaging in the practice for which he or she is licensed. It shall be the duty of the prosecuting attorney of each county to prosecute all cases involving a violation of this chapter arising within his or her county. The attorney general may assist in such prosecution and shall appear at all hearings when requested to do so by the board. [1991 c 3 § 181; 1987 c 150 § 48; 1986 c 259 § 125; 1983 c 116 § 18; 1961 c 64 § 8; 1949 c 239 § 9; Rem. Supp. 1949 § 10163-9.]

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.  
*False advertising: Chapter 9.04 RCW.*

**18.74.095 False advertising—Injunctions.** If any person violates the provisions of this chapter, the attorney general, prosecuting attorney, the secretary, the board, or any citizen of the same county, may maintain an action in the name of the state to enjoin such person from practicing or holding himself or herself out as practicing physical therapy. The injunction shall not relieve criminal prosecution but the remedy by injunction shall be in addition to the liability of such offender for criminal prosecution and the suspension or revocation of his or her license. [1991 c 3 § 182; 1983 c 116 § 19; 1961 c 64 § 9.]

**18.74.120 Record of proceedings—Register.** The secretary of health shall keep a record of proceedings under this chapter and a register of all persons licensed under it. The register shall show the name of every living licensed physical therapist, his or her last known place of residence, and the date and number of his or her license as a physical therapist. [1991 c 3 § 183; 1983 c 116 § 21; 1979 c 158 § 63; 1977 c 75 § 11; 1949 c 239 § 12; Rem. Supp. 1949 § 10163-12.]

**18.74.140 Practice setting not restricted.** Nothing in this chapter restricts the ability of physical therapists to work in the practice setting of their choice. [1991 c 12 § 4.]

## Chapter 18.76

### POISON INFORMATION CENTERS

#### Sections

18.76.020	Definitions.
18.76.050	Rules and standards.

**18.76.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Department" means the department of health.

(2) "Poison information center medical director" means a person who: (a) Is licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW; (b) is certified by the secretary under standards adopted under RCW 18.76.050; and (c) provides services enumerated under RCW 18.76.030 and 18.76.040, and is responsible for supervision of poison information specialists.

(3) "Poison information specialist" means a person who provides services enumerated under RCW 18.76.030 and 18.76.040 under the supervision of a poison information center medical director and is certified by the secretary under standards adopted under RCW 18.76.050.

(4) "Secretary" means the secretary of health. [1991 c 3 § 184; 1987 c 214 § 19.]

**18.76.050 Rules and standards.** The secretary with the advice of the emergency medical services and trauma care steering committee established under RCW 18.73.050 shall adopt rules, under chapter 34.05 RCW, prescribing:

(1) Standards for the operation of a poison information center;

(2) Standards and procedures for certification, recertification and decertification of poison center medical directors and poison information specialists; and

(3) Standards and procedures for reciprocity with other states or national certifying agencies. [1990 c 269 § 21; 1987 c 214 § 20.]

**Severability—1990 c 269:** See RCW 70.168.901.

## Chapter 18.78 PRACTICAL NURSES

Sections	
18.78.005	Purpose.
18.78.010	Definitions.
18.78.020	Board of practical nursing created.
18.78.030	Vacancies—Terms of members—Meetings.
18.78.040	Compensation and travel expenses of board members—Officers.
18.78.050	Duties of board—Rules.
18.78.055	Practical nursing schools/programs—Approval—Surveys.
18.78.060	Qualifications of applicants for license—Examination—Interim permit.
18.78.080	License fees.
18.78.090	Renewal.
18.78.100	Executive secretary of board.
18.78.110	Repealed.
18.78.160	Limitation of practice—Activities not covered by chapter.
18.78.182	Scope of practice.
18.78.225	Inactive status.

**18.78.005 Purpose.** The purpose of this chapter is to protect the health of the general public and to provide for the establishment and enforcement of standards for licensing practical nurses. Any person offering to practice as a licensed practical nurse or using any title, representation, sign, or device to indicate that the person is practicing as a practical nurse or licensed practical nurse

in this state shall submit evidence that he or she is qualified to practice and shall be licensed as provided in this chapter. [1991 c 84 § 1; 1983 c 55 § 1.]

**18.78.010 Definitions.** Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Board" shall mean "Washington state board of practical nursing."

(2) "Curriculum" means the theoretical and practical studies which must be taught in order for students to meet the minimum standards of competency as determined by the board.

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

(4) "Licensed practical nurse," abbreviated "L.P.N.," means a person licensed by the board to practice practical nursing.

(5) "Licensed practical nurse practice" shall mean the performance of services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner authorized under chapter 18.88 RCW, or podiatric physician and surgeon or at the direction and under the supervision of a registered nurse.

(6) "Supervision" shall mean the critical evaluation of acts performed with authority to take corrective action, but shall not be construed so as to require direct and bodily presence. [1991 c 84 § 13; 1991 c 3 § 185; 1983 c 55 § 2; 1967 c 79 § 1; 1963 c 15 § 1; 1949 c 222 § 1; Rem. Supp. 1949 § 10173-27.]

**Reviser's note:** This section was amended by 1991 c 3 § 185 and by 1991 c 84 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.050(1).

**18.78.020 Board of practical nursing created.** There is hereby created a board to be known and designated as the "Washington state board of practical nursing." The board of practical nursing shall be composed of five members, appointed by the governor as follows:

(1) Two members shall be licensed practical nurses who shall have had not less than five years' actual experience as a licensed practical nurse and who have practiced as a practical nurse within two years of appointment;

(2) Two members shall be licensed registered nurses who have no less than five years' experience in the practice of nursing, one of whom shall be a registered nurse actively engaged in instructing in an approved practical nursing course, and one of whom shall be a registered nurse supervisor of licensed practical nurses;

(3) There shall be one public member who does not derive his or her livelihood primarily from the provision of health services and is not:

(a) A present or former member of another licensing board;

(b) A licensed health professional; or

(c) An employee of a health care facility. [1991 c 84 § 2; 1983 c 55 § 3; 1967 c 79 § 2; 1949 c 222 § 2; Rem. Supp. 1949 § 10173-28.]

*Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.*

**18.78.030 Vacancies—Terms of members—Meetings.** Vacancies occurring on the board shall be filled for the unexpired term by appointment of the governor, who also may remove any member from the board for neglect of duty required by law, for incompetency, or for unprofessional conduct as defined in chapter 18.130 RCW. All appointments shall be for terms of five years each. No person may serve as a member of the board for more than two consecutive terms, except that a member who is filling less than one-half of an uncompleted term shall be eligible for two full terms in addition to the uncompleted term. Board members shall serve until a successor is appointed.

The board shall meet at least quarterly at times and places it designates. It shall hold such other meetings during the year as may be deemed necessary to transact its business. A majority of the board currently serving shall constitute a quorum at any meeting. [1991 c 84 § 3; 1983 c 55 § 4; 1949 c 222 § 3; Rem. Supp. 1949 § 10173-29.]

**18.78.040 Compensation and travel expenses of board members—Officers.** Each board member shall be compensated in accordance with RCW 43.03.240 and shall be paid travel expenses while away from home in accordance with RCW 43.03.050 and 43.03.060. The board shall appoint officers annually. [1991 c 84 § 4; 1984 c 287 § 47; 1983 c 55 § 5; 1975-'76 2nd ex.s. c 34 § 45; 1967 c 188 § 4; 1949 c 222 § 4; Rem. Supp. 1949 § 10173-30.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

*Executive secretary of board: RCW 18.78.100.*

**18.78.050 Duties of board—Rules.** The board shall conduct examinations for all applicants for licensure under this chapter and shall certify qualified applicants for licensure to the department. The board in consultation with the \*state board for community college education and the superintendent of public instruction shall also determine and formulate what constitutes the curriculum for approved practical nursing schools/programs and shall establish criteria for minimum standards for schools/programs preparing persons for licensure under this chapter. The board shall establish criteria for licensure by endorsement.

The board may adopt rules or issue advisory opinions in response to questions from professional health associations, health care practitioners, and consumers in this state concerning licensed practical nurse practice. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice of practical nursing.

The board shall adopt such rules as are necessary to fulfill the purposes of this chapter pursuant to chapter 34.05 RCW. [1991 c 84 § 5; (1991 c 3 § 186 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 211 § 4; 1986 c 259 § 129; 1983 c 55 § 6; 1979 c 158 § 64; 1967 c 79 § 3; 1949 c 222 § 5; Rem. Supp. 1949 § 10173-31.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.78.055 Practical nursing schools/programs—Approval—Surveys.** An institution desiring to conduct a school/program of practical nursing shall apply to the board and submit evidence satisfactory to the board that: (1) It is prepared to carry out the approved curriculum for an approved practical nursing school/program; and (2) it is prepared to meet other standards established by this chapter and by the board.

If in the opinion of the board a school/program of practical nursing meets the requirements of this chapter and the board, the program shall be approved.

All approved practical nursing schools/programs in the state shall be surveyed and the board shall review written reports of each survey. The surveys shall be conducted periodically as determined by the board. If the board determines that an approved practical nursing school/program is not maintaining the curriculum standards or other standards required by the board written notice shall be given specifying the deficiencies. Failure to correct the deficiencies within a period of time specified by the board shall result in the suspension of the program's approval. [1991 c 84 § 6; 1983 c 55 § 7.]

**18.78.060 Qualifications of applicants for licensure—Examination—Interim permit.** An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, on a form provided by the board, verified under oath, that the applicant:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Is of good physical and mental health;
- (4) Has a high school diploma or general educational development certificate or diploma;
- (5) Has completed an approved program for the education of practical nurses, or its equivalent, as determined by the board;
- (6) Has provided written information or completed other requirements of the board;
- (7) At the time of submission, is not in violation of chapter 18.130 RCW or any provisions of this chapter.

To be licensed as a practical nurse, each applicant shall be required to pass an examination in such subjects as the board may determine within the scope of and commensurate with the work to be performed by a licensed practical nurse. Upon approval by the board, the department shall issue an interim permit authorizing the applicant to practice nursing as authorized under this

chapter pending notification of the results of the first licensing examination following verification of satisfactory completion of an approved program of practical nursing. Any applicant failing to pass the examination may apply for reexamination. If the applicant fails the examination, the interim permit expires upon notification and is not renewable. Upon passing the examination a license shall be issued to the applicant to practice as a licensed practical nurse, providing the license fee is paid by the applicant and the applicant meets all other requirements of the board. [1991 c 84 § 7; (1991 c 3 § 187 repealed by 1991 1st sp.s. c 11 § 2); 1988 c 212 § 1; 1983 c 55 § 8; 1971 ex.s. c 292 § 26; 1963 c 15 § 2; 1949 c 222 § 6; Rem. Supp. 1949 § 10173–32.]

**Effective date—Implementation—1988 c 212:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1988. The director of licensing may immediately take such steps as are necessary to ensure that this act is implemented on its effective date." [1988 c 212 § 2.]

**Severability—1971 ex.s. c 292:** See note following RCW 26.28.010.

**18.78.080 License fees.** Applicants applying for a license to practice as a licensed practical nurse, with or without examination, or for reexamination, shall pay fees determined by the secretary as provided in RCW 43.70.250 to the department. [1991 c 84 § 8; (1991 c 3 § 188 repealed by 1991 1st sp.s. c 11 § 2); 1985 c 7 § 65; 1979 c 158 § 65; 1975 1st ex.s. c 30 § 68; 1963 c 15 § 3; 1949 c 222 § 9; Rem. Supp. 1949 § 10173–35.]

**18.78.090 Renewal.** Every licensed practical nurse in this state shall renew the license with the department, shall pay a fee determined by the secretary as provided in RCW 43.70.250, and shall provide evidence of knowledge and skill in current practice as required by the board. Any failure to register, pay the renewal registration fee, or meet the requirements of the board shall render the license lapsed. The lapsed license shall be reinstated upon payment to the state of renewal and penalty fees determined by the secretary as provided in RCW 43.70.250 and upon compliance with the rules established by the board. [1991 c 84 § 9; (1991 c 3 § 189 repealed by 1991 1st sp.s. c 11 § 2). Prior: 1986 c 259 § 131; 1985 c 7 § 66; 1983 c 55 § 10; 1979 c 158 § 66; 1975 1st ex.s. c 30 § 69; 1971 ex.s. c 266 § 14; 1967 c 79 § 4; 1963 c 15 § 4; 1949 c 222 § 10; Rem. Supp. 1949 § 10173–36.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.78.100 Executive secretary of board.** After consultation with the board, the secretary shall appoint an executive secretary of the board to carry out the provisions of this chapter.

The board and secretary shall determine the qualifications required to be employed as the executive secretary. [1991 c 84 § 10; 1991 c 3 § 190; 1983 c 55 § 11; 1971 c 68 § 1; 1949 c 222 § 11; Rem. Supp. 1949 § 10173–37.]

**Reviser's note:** This section was amended by 1991 c 3 § 190 and by 1991 c 84 § 10, each without reference to the other. Both amendments

are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**18.78.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.78.160 Limitation of practice—Activities not covered by chapter.** This chapter shall not be construed as conferring authority to practice medicine or surgery, or to practice as a registered nurse, or to undertake the treatment or cure of disease, pain, injury, deformity or physical condition; nor shall it be construed to prohibit:

(1) The incidental care of the sick by domestic servants or persons primarily employed as housekeepers, if they do not practice practical nursing within the meaning of this chapter;

(2) The domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(3) Practical nurse practice by students enrolled in approved schools if incidental to their course of study, nor shall it prohibit these students from working as nursing assistants;

(4) Auxiliary services provided by persons performing duties necessary for the support of nursing service including those duties which involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of registered nurses;

(5) The practice of nursing in this state by a practical nurse legally qualified in another state or territory of the United States whose engagement requires the person to accompany and care for a patient temporarily residing in this state during the period of one engagement not to exceed six months, if the person does not represent himself or herself as a nurse licensed to practice in this state;

(6) Nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any church by its adherents if they do not engage in practical nurse practice as defined in this chapter; or

(7) The practice, while in the course of official duties, of any legally qualified practical nurse of another state who is employed by the United States government or any of its bureaus, divisions, or agencies. [1991 c 84 § 12; 1983 c 55 § 15; 1949 c 222 § 17; Rem. Supp. 1949 § 10173–43.]

**18.78.182 Scope of practice.** A licensed practical nurse under his or her license may perform nursing care (as that term is usually understood) of the ill, injured, or infirm, and in the course thereof is authorized, under the direction and supervision of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner authorized under chapter 18.88 RCW, podiatric physician and surgeon (acting within the scope of his or her license), or at the direction and under the supervision of a registered nurse, to administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of

tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; provided the order given is reduced to writing within a reasonable time and made a part of the patient's record. [1991 c 84 § 11; 1983 c 55 § 19; 1971 c 68 § 2; 1967 c 79 § 6.]

*Authority of registered nurses: RCW 18.88.285.*

**18.78.225 Inactive status.** An individual may place his or her license on inactive status with proper notification to the department. The holder of an inactive license shall not practice practical nursing in this state. The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license. An inactive license may be placed in an active status upon compliance with the rules established by the board.

The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive or lapsed license. When proceedings to suspend or revoke an inactive license have been initiated, the license shall not be reinstated until the proceedings have been completed. [1991 c 3 § 192; 1988 c 211 § 12.]

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

### Chapter 18.83 PSYCHOLOGISTS

#### Sections

18.83.010	Definitions.
18.83.025	Secretary—Authority.
18.83.035	Repealed. (Effective June 30, 1996.)
18.83.045	Examining board—Generally. (Effective until June 30, 1996.)
18.83.045	Repealed. (Effective June 30, 1996.)
18.83.050	Examining board—Powers and duties. (Effective until June 30, 1996.)
18.83.050	Repealed. (Effective June 30, 1996.)
18.83.051	Repealed. (Effective June 30, 1996.)
18.83.060	Application for license—Fee.
18.83.072	Examinations—Where held—Applicant—board conference—Reexamination.
18.83.080	Licenses—Issuance—Display.
18.83.090	Continuing education requirements—License renewal.
18.83.105	Certificates of qualification.
18.83.170	Endorsement.
18.83.190	Injunction.
18.83.910	Examining board of psychology—Termination.
18.83.911	Examining board of psychology—Repeal.

#### **18.83.010 Definitions.** When used in this chapter:

(1) The "practice of psychology" means the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of evaluation, group relations and behavior adjustment, including but not limited to: (a) Counseling and guidance; (b) use of psychotherapeutic techniques with clients who have adjustment problems in the family, at school, at work or in interpersonal relationships;

(c) measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes and skills.

This definition does not include the teaching of principles of psychology for accredited educational institutions, or the conduct of research in problems of human or animal behavior.

Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW.

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

(3) "Board" means the examining board of psychology.

(4) "Committee" means the disciplinary committee established by the board.

(5) "Department" means the department of health. [1991 c 3 § 193; 1984 c 279 § 75; 1979 c 158 § 67; 1965 c 70 § 1; 1955 c 305 § 1.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.025 Secretary—Authority.** The secretary has the following authority:

(1) To hire such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation, hearing, or proceeding, and to reimburse the individuals for services provided. [1991 c 3 § 194; 1984 c 279 § 87.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.035 Repealed. (Effective June 30, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.83.045 Examining board—Generally. (Effective until June 30, 1996.)** The board shall meet at least once each year and at such other times as the board deems appropriate to properly discharge its duties. All meetings shall be held in Olympia, Washington, or such other places as may be designated by the secretary. Five members of the board shall constitute a quorum, except that oral examinations may be conducted with only three psychologist members. [1991 c 3 § 195; 1984 c 279 § 77.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.045 Repealed. (Effective June 30, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.83.050 Examining board—Powers and duties. (Effective until June 30, 1996.)** (1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing under this chapter and shall forward to the secretary the names of applicants so eligible.

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examinations and shall require both written and oral examinations of each applicant, except as provided in RCW 18.83.170. The board may allow applicants to take the written examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

(5) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

(6) The board shall create a disciplinary committee within the board for the purposes of hearing, examining, and ruling on complaints and evidence of unethical conduct or practices brought by the public, other psychologists, organizations, corporations, public or private agencies, or officers, agencies, or instrumentalities of state, county, or local governments.

(7) The board may require that persons licensed under this chapter as psychologists obtain and maintain professional liability insurance in amounts determined by the board to be practicable and reasonably available. [1991 c 3 § 196; 1986 c 27 § 3; 1984 c 279 § 78; 1965 c 70 § 5; 1955 c 305 § 5.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.050 Repealed.** (Effective June 30, 1996.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.83.051 Repealed.** (Effective June 30, 1996.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.83.060 Application for license—Fee.** Each applicant for a license shall file with the secretary an application duly verified, in such form and setting forth such information as the board shall prescribe. An application fee determined by the secretary as provided in RCW 43.70.250 shall accompany each application. [1991 c 3 § 197; 1984 c 279 § 79; 1975 1st ex.s. c 30 § 72; 1965 c 70 § 6; 1955 c 305 § 6.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.072 Examinations—Where held—Applicant—board conference—Reexamination.** (1) Examination of applicants shall be held in Olympia, Washington, or at such other place as designated by the secretary, at least annually at such times as the board may determine.

(2) Any applicant shall have the right to discuss with the board his or her performance on the examination.

(3) Any applicant who fails to make a passing grade on the examination may be allowed to retake the examination. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

(4) The reexamination fee shall be the same as the application fee set forth in RCW 18.83.060. [1991 c 3 § 198; 1984 c 279 § 81; 1971 ex.s. c 266 § 15; 1965 c 70 § 20.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.080 Licenses—Issuance—Display.** Upon forwarding to the secretary by the board of the name of each applicant entitled to a license under this chapter, the secretary shall promptly issue to such applicant a license authorizing such applicant to use the title "psychologist" for a period of one year. Said license shall be in such form as the secretary shall determine. Each licensed psychologist shall keep his or her license displayed in a conspicuous place in his or her principal place of business. [1991 c 3 § 199; 1986 c 27 § 4; 1965 c 70 § 8; 1955 c 305 § 8.]

**18.83.090 Continuing education requirements—License renewal.** The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal. Each licensed psychologist shall pay to the health professions account, created in RCW 43.70.320, annually, at such time as determined by the board, an annual license renewal fee determined by the secretary under RCW 43.70.250. Upon receipt of the fee, the secretary shall issue a certificate of renewal in such form as the secretary shall determine. [1991 c 3 § 200; 1984 c 279 § 83; 1977 c 58 § 1; 1975 1st ex.s. c 30 § 74; 1971 ex.s. c 266 § 16; 1965 c 70 § 9; 1955 c 305 § 9.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.105 Certificates of qualification.** The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of Doctor of Philosophy or its equivalent in psychology from an accredited educational institution. These certificates of qualification certify that the holder has been examined by the board and is deemed competent to perform certain functions within the practice of psychology under the periodic direct supervision of a psychologist licensed by the board. Such functions will be specified on the certificate issued by the board. Such applicant shall pay to the board of examiners a fee determined by the secretary as provided in RCW 43.70.250 for certification in a single area of qualification and a fee for amendment of the certificate to include each additional area of qualification. Upon petition by a holder the board of examiners may grant authority to function without immediate supervision. [1991 c 3 § 201; 1985 c 7 § 67; 1975 1st ex.s. c 30 § 75; 1965 c 70 § 22.]

**18.83.170 Endorsement.** Upon application accompanied by a fee determined by the secretary as provided in

RCW 43.70.250, the board may grant a license, without written examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

(1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(2) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(3) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology. [1991 c 3 § 202; 1984 c 279 § 92; 1975 1st ex.s. c 30 § 76; 1965 c 70 § 17; 1955 c 305 § 17.]

**Severability**—1984 c 279: See RCW 18.130.901.

**18.83.190 Injunction.** If any person represents himself or herself to be a psychologist, unless the person is exempt from the provisions of this chapter, without possessing a valid license, certificated qualification, or a temporary permit to do so, or if he or she violates any of the provisions of this chapter, any prosecuting attorney, the secretary, or any citizen of the same county may maintain an action in the name of the state to enjoin such person from representing himself or herself as a psychologist. The injunction shall not relieve the person from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to suspension or revocation of his or her license. [1991 c 3 § 203; 1986 c 27 § 8; 1965 c 70 § 24.]

**18.83.910 Examining board of psychology—Termination.** The powers and duties of the examining board of psychology shall be terminated on June 30, 1995, as provided in RCW 18.83.911. [1990 c 297 § 7; 1988 c 288 § 8; 1986 c 27 § 11; 1985 c 7 § 109; 1984 c 279 § 94. Formerly RCW 43.131.323.]

**18.83.911 Examining board of psychology—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 76, chapter 279, Laws of 1984, section 2, chapter 27, Laws of 1986, section 1, chapter 226, Laws of 1989 and RCW 18.83.035;

(2) Section 77, chapter 279, Laws of 1984 and RCW 18.83.045;

(3) Section 5, chapter 305, Laws of 1955, section 5, chapter 70, Laws of 1965, section 78, chapter 279, Laws of 1984, section 3, chapter 27, Laws of 1986 and RCW 18.83.050; and

(4) Section 21, chapter 70, Laws of 1965, section 19, chapter 199, Laws of 1969 ex. sess., section 48, chapter 34, Laws of 1975-'76 2nd ex. sess., section 10, chapter 168, Laws of 1983, section 48, chapter 287, Laws of 1984 and RCW 18.83.051. [1990 c 297 § 8.]

## Chapter 18.84

### RADIOLOGIC TECHNOLOGISTS

#### Sections

18.84.010	Legislative intent—Insurance coverage not mandated.
18.84.020	Definitions.
18.84.030	Registration or certificate required.
18.84.040	Powers of secretary—Application of uniform disciplinary act.
18.84.050	Record of proceedings.
18.84.060	Radiologic technology advisory committee—Generally.
18.84.070	Secretary and advisory committee immune from liability.
18.84.080	Certification—Qualifications.
18.84.090	Certification—Approval of schools and training.
18.84.100	Certification—Application form—Fee.
18.84.110	Renewal of certificates.
18.84.120	Registration—Fee—Requirements.
18.84.130	Educational material.
18.84.140	Application of chapter—Exemption for persons performing services within their authorized scope of practice.
18.84.150	Application of chapter—Exemption for licensed dentists.
18.84.160	Application of chapter—Exemption for licensed chiropractors.
18.84.170	Registration deadline.
18.84.900	Repealed.
18.84.903	Effective date—1991 c 222.

**18.84.010 Legislative intent—Insurance coverage not mandated.** It is the intent and purpose of this chapter to protect the public by the certification and registration of practitioners of radiological technology. By promoting high standards of professional performance, by requiring professional accountability, and by credentialing those persons who seek to provide radiological technology under the title of radiological technologists, and by regulating all persons utilizing ionizing radiation on human beings this chapter identifies those practitioners who have achieved a particular level of competency. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

The legislature finds and declares that this chapter conforms to the guidelines, terms, and definitions for the credentialing of health or health-related professions specified under chapter 18.120 RCW. [1991 c 222 § 1; 1987 c 412 § 1.]

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

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

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

(3) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(4) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles x-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner; or

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner; or

(c) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner.

(5) "Advisory committee" means the Washington state radiologic technology advisory committee.

(6) "Approved school of radiologic technology" means a school of radiologic technology approved by the council on medical education of the American medical association or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing the requisite clinical experience, shall be affiliated with one or more general hospitals.

(7) "Radiologic technology" means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

(8) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

(9) "Registered x-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner. [1991 c 222 § 2; 1991 c 3 § 204; 1987 c 412 § 3.]

**18.84.030 Registration or certificate required.** No person may practice radiologic technology without being registered or certified under this chapter, unless that person is a licensed practitioner as defined in RCW 18.84.020(3). A person represents himself or herself to the public as a certified radiological technologist when that person adopts or uses a title or description of services that incorporates one or more of the following items or designations:

(1) Certified radiologic technologist or CRT, for persons so certified under this chapter;

(2) Certified radiologic therapy technologist, CRTT, or CRT, for persons certified in the therapeutic field;

(3) Certified radiologic diagnostic technologist, CRDT, or CRT, for persons certified in the diagnostic field; or

(4) Certified nuclear medicine technologist, CNMT, or CRT, for persons certified as nuclear medicine technologists. [1991 c 222 § 3; 1987 c 412 § 2.]

**18.84.040 Powers of secretary—Application of uniform disciplinary act.** (1) In addition to any other authority provided by law, the secretary may in consultation with the advisory committee:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all registration, certification, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate;

(e) Determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to receive a certificate;

(f) Issue a certificate to any applicant who has met the education, training, and conduct requirements for certification; and

(g) Issue a registration to an applicant who meets the requirement for a registration.

(2) The secretary may hire clerical, administrative, and investigative staff as needed to implement this chapter.

(3) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications, unregistered and uncertified practice, and the discipline of registrants and certificants under this chapter. The secretary is the disciplining authority under this chapter. [1991 c 222 § 11; 1991 c 3 § 205; 1987 c 412 § 5.]

**18.84.050 Record of proceedings.** The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for certification under this chapter, with the result of each application. [1991 c 3 § 206; 1987 c 412 § 6.]

**18.84.060 Radiologic technology advisory committee—Generally.** (1) There is created a state radiologic technology advisory committee consisting of seven members appointed by the secretary who shall advise the secretary concerning the administration of this chapter. Three members of the committee shall be radiologic technologists who are certified under this chapter, except for the initial members of the committee, and who have been engaged in the practice of radiologic technology for at least five years. Two members shall be radiologists. Two members of the committee shall be individuals who are unaffiliated with the profession representing the public. The term of office for committee members is four years. The terms of the first committee members, however, shall be staggered to ensure an orderly succession of new committee members thereafter. Any committee member may be removed for just cause. The secretary may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term. No committee member may serve more than two consecutive terms whether full or partial.

(2) Committee members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(3) The committee shall elect a chair and vice-chair annually to direct the meetings of the committee. The committee shall meet at least once each year, and may hold additional meetings as called by the secretary or the chair. Four members of the committee shall constitute a quorum. [1991 c 3 § 207; 1987 c 412 § 7.]

**18.84.070 Secretary and advisory committee immune from liability.** The secretary, members of the committee, or individuals acting on their behalf are immune from suit in any civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties. [1991 c 3 § 208; 1987 c 412 § 8.]

**18.84.080 Certification—Qualifications.** (1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction, that the following requirements have been met:

(a) Graduation from an approved school or successful completion of alternate training that meets the criteria established by the secretary; and

(b) Good moral character.

(2) Applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

(3) The secretary shall establish by rule what constitutes adequate proof of meeting the requirements for certification and for designation of certification in a particular field of radiologic technology. [1991 c 3 § 209; 1987 c 412 § 9.]

**18.84.090 Certification—Approval of schools and training.** The secretary, in consultation with the advisory committee, shall establish by rule the standards and procedures for approval of schools and alternate training, and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions. [1991 c 3 § 210; 1987 c 412 § 10.]

**18.84.100 Certification—Application form—Fee.** Applications for certification must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the determination of whether the applicant meets the requirements for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250 which shall accompany the application. [1991 c 3 § 211; 1987 c 412 § 11.]

**18.84.110 Renewal of certificates.** The secretary, in consultation with the advisory committee, shall establish by rule the requirements and fees for renewal of certificates. Failure to renew invalidates the certificate and all privileges granted by the certificate. In the event a certificate has lapsed for a period longer than three years,

the certificant shall demonstrate competence to the satisfaction of the secretary by continuing education or under the other standards determined by the secretary. [1991 c 3 § 212; 1987 c 412 § 12.]

**18.84.120 Registration—Fee—Requirements.** The secretary may issue a registration to an applicant who submits, on forms provided by the department, the applicant's name, the address, occupational title, name and location of business where applicant performs his or her services, and other information as determined by the secretary, including information necessary to determine whether there are grounds for denial of registration under this chapter or chapter 18.130 RCW. Each applicant shall pay a fee as determined by the secretary as provided in RCW 43.70.250. The secretary shall establish by rule the procedural requirements and fees for registration and for renewal of registrations. [1991 c 222 § 4.]

**18.84.130 Educational material.** The secretary may provide educational materials and training to registered x-ray technicians, certified radiologic technologists, licensed practitioners and the public concerning, but not limited to, health risks associated with ionizing radiation, proper radiographic techniques, and x-ray equipment maintenance. The secretary may charge fees to recover the cost of providing educational materials and training. [1991 c 222 § 5.]

**18.84.140 Application of chapter—Exemption for persons performing services within their authorized scope of practice.** Nothing in this chapter may be construed to prohibit or restrict the practice of a profession by a person who is either registered, certified, licensed, or similarly regulated under the laws of this state who is performing services within the person's authorized scope of practice. [1991 c 222 § 6.]

**18.84.150 Application of chapter—Exemption for licensed dentists.** This chapter does not apply to practitioners licensed under chapter 18.32 RCW or unlicensed persons supervised by persons licensed under chapter 18.32 RCW. [1991 c 222 § 7.]

**18.84.160 Application of chapter—Exemption for licensed chiropractors.** This chapter does not apply to practitioners licensed under chapter 18.25 RCW or unlicensed persons supervised by persons licensed under chapter 18.25 RCW. [1991 c 222 § 8.]

**18.84.170 Registration deadline.** Persons required to register under this chapter must be registered by January 1, 1992. [1991 c 222 § 10.]

**18.84.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.84.903 Effective date—1991 c 222.** This act is necessary for the immediate preservation of the public

peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 222 § 14.]

### Chapter 18.85

#### REAL ESTATE BROKERS AND SALESPERSONS

##### Sections

18.85.140	License fees—Expiration—Renewal—Identification cards.
18.85.165	Licenses—Continuing education.
18.85.220	License fees—Real estate commission account. (Effective July 1, 1993.)
18.85.230	Disciplinary action—Grounds.

**18.85.140 License fees—Expiration—Renewal—Identification cards.** Before receiving his or her license every real estate broker, every associate real estate broker, and every real estate salesperson must pay a license fee as prescribed by the director by rule. Every license issued under the provisions of this chapter expires on the applicant's second birthday following issuance of the license. Licenses issued to partnerships expire on a date prescribed by the director by rule. Licenses issued to corporations expire on a date prescribed by the director by rule, except that if the corporation registration or certificate of authority filed with the secretary of state expires, the real estate broker's license issued to the corporation shall expire on that date. Licenses must be renewed every two years on or before the date established under this section and a biennial renewal license fee as prescribed by the director by rule must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, a penalty fee as prescribed by the director by rule shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedures and requirements as prescribed by the director by rule.

The director shall issue to each active licensee a license and a pocket identification card in such form and size as he or she shall prescribe. [1991 c 225 § 2; 1989 c 161 § 2; 1987 c 332 § 5; 1979 c 25 § 2. Prior: 1977 ex.s. c 370 § 4; 1977 ex.s. c 24 § 3; 1972 ex.s. c 139 § 12; 1953 c 235 § 7; 1951 c 222 § 12. Formerly: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340–35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340–34, part; prior: 1925 ex.s. c 129 §§ 10, 11.]

**Effective date—1989 c 161 § 2:** "Section 2 of this act shall take effect January 1, 1991." [1989 c 161 § 4.]

**18.85.165 Licenses—Continuing education.** All real estate brokers and salespersons shall furnish proof as the director may require that they have successfully

completed a total of thirty clock hours of instruction every two years in real estate courses approved by the director in order to renew their licenses. Up to fifteen clock hours of instruction beyond the thirty hours in two years may be carried forward for credit in a subsequent two-year period. To count towards this requirement, a course shall be commenced within thirty-six months before the proof date for renewal. Examinations shall not be required to fulfill any part of the education requirement in this section. This section shall apply to renewal dates after January 1, 1991. [1991 c 225 § 1; 1988 c 205 § 1.]

**18.85.220 License fees—Real estate commission account. (Effective July 1, 1993.)** All fees required under this chapter shall be set by the director in accordance with RCW 43.24.086 and shall be paid to the state treasurer. All fees paid under the provisions of this chapter shall be placed in the real estate commission account in the state treasury. All money derived from fines imposed under this chapter shall also be deposited in the real estate commission account, shall be used solely for education for the benefit of licensees and shall be subject to appropriation pursuant to chapter 43.88 RCW. [1991 c 277 § 1; 1987 c 332 § 8; 1967 c 22 § 1; 1953 c 235 § 11; 1941 c 252 § 7; Rem. Supp. 1941 § 8340–30.]

**Effective date—1991 c 277:** "This act shall take effect July 1, 1993." [1991 c 277 § 3.]

**18.85.230 Disciplinary action—Grounds.** The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may impose any one or more of the following sanctions: Suspend or revoke, levy a fine not to exceed one thousand dollars for each offense, require the completion of a course in a selected area of real estate practice relevant to the section of this chapter or rule violated, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 58.19 RCW or the rules adopted under those chapters;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all

proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesperson or associate broker operates, to the advertisement; except, that a real estate broker, associate real estate broker, or real estate salesperson advertising their personally owned real property must only disclose that they hold a real estate license;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker, associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kick-back or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that he or she holds a real estate license;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or salesperson, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker, associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter. [1990 c 85 § 1; 1988 c 205 § 5. Prior: 1987 c 370 § 15; 1987 c 332 § 9; 1979 c 25 § 4; prior: 1977 ex.s. c 261 § 1; 1977 ex.s. c 204 § 1; 1972 ex.s. c 139 § 19; 1967 c 22 § 3; 1953 c 235 § 12; 1951 c 222 § 16; 1947 c 203 § 5; 1945 c 111 § 8; 1943 c 118 § 5; 1941 c 252 § 19; Rem. Supp. 1947 § 8340-42; prior: 1925 ex.s. c 129 § 13.]

*False advertising: Chapter 9.04 RCW.*

*Obstructing justice: Chapter 9A.72 RCW.*

## Chapter 18.88 REGISTERED NURSES

### Sections

18.88.030	Definitions—Construction—Exceptions.
18.88.080	Powers and duties of board—Compensation and travel expenses of members.
18.88.090	Executive secretary—Assistants—Employees—Compensation, travel expenses.
18.88.160	License fee.
18.88.175	Advanced registered nurse practitioner.
18.88.190	Renewal of licenses—Fee.
18.88.200	Penalty for failure to renew.
18.88.220	Temporary retirement—Evidence of knowledge and skill after inactive status for three or more years.

**18.88.030 Definitions—Construction—Exceptions.** Whenever used in this chapter, terms defined in this section shall have the meanings herein specified unless the context clearly indicates otherwise.

The practice of nursing means the performance of acts requiring substantial specialized knowledge, judgment and skill based upon the principles of the biological, physiological, behavioral and sociological sciences in either:

(1) The observation, assessment, diagnosis, care or counsel, and health teaching of the ill, injured or infirm, or in the maintenance of health or prevention of illness of others.

(2) The performance of such additional acts requiring education and training and which are recognized jointly by the medical and nursing professions as proper to be performed by nurses licensed under this chapter and which shall be authorized by the board of nursing through its rules and regulations.

(3) The administration, supervision, delegation and evaluation of nursing practice: **PROVIDED, HOWEVER,** That nothing herein shall affect the authority of any hospital, hospital district, medical clinic or office, concerning its administration and supervision.

(4) The teaching of nursing.

(5) The executing of medical regimen as prescribed by a licensed physician, osteopathic physician, dentist, or \*podiatrist.

Nothing in this chapter shall be construed as prohibiting any person from practicing any profession for which a license shall have been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This chapter shall not be construed as prohibiting the nursing care of the sick, without compensation, by any

unlicensed person who does not hold herself or himself out to be a registered nurse, and further, this chapter shall not be construed as prohibiting the practice of practical nursing by any practical nurse, with or without compensation in either homes or hospitals.

The word "board" means the Washington state board of nursing.

The term "department" means the department of health.

The word "diagnosis", in the context of nursing practice, means the identification of, and discrimination between, the person's physical and psycho-social signs and symptoms which are essential to effective execution and management of the nursing care regimen.

The term "diploma" means written official verification of completion of an approved nursing education program.

The term "secretary" means the secretary of health or the secretary's designee.

The terms "nurse" or "nursing" wherever they occur in this chapter, unless otherwise specified, for the purposes of this chapter shall mean a registered nurse or registered nursing. [1991 c 3 § 213; 1989 c 114 § 1; 1979 c 158 § 69; 1973 c 133 § 3; 1961 c 288 § 1; 1949 c 202 § 4; Rem. Supp. 1949 § 10173-3. Prior: 1909 c 41 § 10.]

\*Reviser's note: The term "podiatrist" was changed to "podiatric physician and surgeon" by 1990 c 147.

Severability—1973 c 133: See note following RCW 18.88.010.

**18.88.080 Powers and duties of board—Compensation and travel expenses of members.** The board may adopt such rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of this chapter. The board shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensure under this chapter. It shall keep a record of all its proceedings and make such reports to the governor as may be required. The board shall define by rules what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing professions. The board may adopt rules or issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

The board shall approve such schools of nursing as meet the requirements of this chapter and the board, and the board shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years inactive or lapsed status. The board shall establish criteria for licensure by endorsement. The board shall examine all applications for registration under this chapter, and shall certify to the secretary for licensing duly qualified applicants.

The department shall furnish to the board such secretarial, clerical and other assistance as may be necessary to effectively administer the provisions of this chapter. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 while away from home, be compensated in accordance with RCW 43.03.240. [1991 c 3 § 214; 1988 c 211 § 8; 1984 c 287 § 50; 1977 c 75 § 12; 1975-'76 2nd ex.s. c 34 § 50; 1973 c 133 § 7; 1961 c 288 § 4; 1949 c 202 § 8; Rem. Supp. 1949 § 10173-7. Prior: 1933 c 180 § 1; 1923 c 150 § 1; 1913 c 81 § 1; 1909 c 41 § 3.]

**Legislative declaration—1988 c 211:** "The legislature recognizes the need to increase the pool of available nursing resources to meet new demands on the health care delivery system. The more complex nature of illnesses, constraints on reimbursement pressuring accelerated treatment and earlier patient discharge, the explosion of technology, and the parameters established by third-party payers requiring intense monitoring, may be diverting nurses from the bedside into early burnout, retirement, or employment elsewhere.

The state's nursing educational program, encompassing nursing assistants, licensed practical nurses, and licensed (registered) nurses should be better articulated for career mobility in order to make the nursing profession more attractive to individuals and for retaining qualified nurses in the health care delivery system. Barriers to licensure and employment should be eliminated to increase the number of nurses available for patient care.

The legislature declares this act is in the interest of the public health, safety, and welfare." [1988 c 211 § 1.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1973 c 133:** See note following RCW 18.88.010.

**18.88.090 Executive secretary—Assistants—Employees—Compensation, travel expenses.** The secretary shall appoint, after consultation with the board, an executive secretary who shall act to carry out the provisions of this chapter. The secretary shall also employ such assistants licensed under the provisions of this chapter as shall be necessary to carry out the provisions of this chapter. The secretary shall fix the compensation and provide for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for such appointee and all such employees. [1991 c 3 § 215; 1975-'76 2nd ex.s. c 34 § 51; 1973 c 133 § 8; 1961 c 288 § 5; 1949 c 202 § 9; Rem. Supp. 1949 § 10173-8.]

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1973 c 133:** See note following RCW 18.88.010.

**18.88.160 License fee.** Each applicant for a license to practice as a registered nurse or a specialized or advanced registered nurse shall pay a fee determined by the secretary as provided in RCW 43.70.250 to the state treasurer. [1991 c 3 § 216; 1985 c 7 § 68; 1975 1st ex.s. c 30 § 77; 1973 c 133 § 15; 1961 c 288 § 10; 1949 c 202 § 16; Rem. Supp. 1949 § 10173-14.]

**Severability—1973 c 133:** See note following RCW 18.88.010.

**18.88.175 Advanced registered nurse practitioner.** Upon approval by the board and following verification of

satisfactory completion of an advanced formal education, the department of health shall issue an interim permit authorizing the applicant to practice specialized and advanced nursing practice pending notification of the results of the first certification examination. If the applicant passes the examination, the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable. The holder of the interim permit is subject to chapter 18.130 RCW. [1991 c 3 § 217; 1988 c 211 § 13.]

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

**18.88.190 Renewal of licenses—Fee.** Every license issued under the provisions of this chapter, whether in an active or inactive status, shall be renewed, except as hereinafter provided. At least thirty days prior to expiration, the secretary shall mail a notice for renewal of license to every person licensed for the current licensing period. The applicant shall return the notice to the department with a renewal fee determined by the secretary as provided in RCW 43.70.250 before the expiration date. Upon receipt of the notice and appropriate fee, the department shall issue to the applicant a license which shall render the holder thereof a legal practitioner of nursing in either active or inactive status for the period stated on the license. [1991 c 3 § 218; 1988 c 211 § 9; 1985 c 7 § 69; 1979 ex.s. c 106 § 1; 1975 1st ex.s. c 30 § 78; 1973 c 133 § 18; 1971 ex.s. c 266 § 18; 1961 c 288 § 11; 1949 c 202 § 19; Rem. Supp. 1949 § 10173-17. Prior: 1933 c 180 § 1; 1909 c 41 § 3.]

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

**Severability—1973 c 133:** See note following RCW 18.88.010.

**18.88.200 Penalty for failure to renew.** Any licensee who allows his or her license to lapse by failing to renew the license, shall upon application for renewal pay a penalty determined by the secretary as provided in RCW 43.70.250. If the applicant fails to renew the license before the end of the current licensing period, the license shall be issued for the next licensing period by the department upon written application and fee determined by the secretary as provided in RCW 43.70.250. Persons on lapsed status for three or more years must provide evidence of knowledge and skill of current practice as required by the board. [1991 c 3 § 219; 1988 c 211 § 10; 1985 c 7 § 70; 1975 1st ex.s. c 30 § 79; 1973 c 133 § 19; 1961 c 288 § 12; 1949 c 202 § 20; Rem. Supp. 1949 § 10173-18. Prior: 1933 c 180 § 1.]

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

**Severability—1973 c 133:** See note following RCW 18.88.010.

**18.88.220 Temporary retirement—Evidence of knowledge and skill after inactive status for three or more years.** A person licensed under the provisions of this chapter desiring to retire temporarily from the practice of nursing in this state shall send a written notice to the secretary.

Upon receipt of such notice the name of such person shall be placed on inactive status. While remaining on this status the person shall not practice nursing in the state as provided in this chapter. When such person desires to resume practice, application for renewal of license shall be made to the board and renewal fee payable to the state treasurer. Persons on inactive status for three years or more must provide evidence of knowledge and skill of current practice as required by the board or as hereinafter in this chapter provided. [1991 c 3 § 220; 1988 c 211 § 11; 1973 c 133 § 20; 1949 c 202 § 22; Rem. Supp. 1949 § 10173-20. Prior: 1933 c 180 § 1.]

**Legislative declaration—1988 c 211:** See note following RCW 18.88.080.

**Severability—1973 c 133:** See note following RCW 18.88.010.

## Chapter 18.88A NURSING ASSISTANTS

### Sections

18.88A.010	Legislative declaration.
18.88A.020	Definitions.
18.88A.030	Scope of practice—Voluntary certification—Rules.
18.88A.040	Registration and certification.
18.88A.050	Powers of secretary.
18.88A.060	Powers of state board of nursing.
18.88A.070	Advisory committee.
18.88A.080	Registration requirements.
18.88A.085	Certification of requirements.
18.88A.090	Examinations.
18.88A.100	Waiver of examination for initial applications.
18.88A.110	Certificates for applicants holding a credential from another state.
18.88A.120	Applications for registration and certification—Fee.
18.88A.130	Renewal of registration or certification.
18.88A.140	Exemptions.
18.88A.150	Application of uniform disciplinary act.
18.88A.900	Severability—1991 c 16.

**18.88A.010 Legislative declaration.** The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

The legislature finds and declares that occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized work force in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

The legislature finds that the quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

The legislature declares that the registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare. [1991 c 16 § 1; 1989 c 300 § 3; 1988 c 267 § 1. Formerly RCW 18.52B.010.]

**18.88A.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

(3) "Board" means the Washington state board of nursing.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are (a) "nursing assistant-certified," an individual certified under this chapter, (b) "nursing assistant-registered," an individual registered under this chapter.

(5) "Committee" means the Washington state nursing assistant advisory committee.

(6) "Approved training program" means a nursing assistant-certified training program approved by the board. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the board in cooperation with the \*board for community college education or the superintendent of public instruction.

(7) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the board.

(8) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant. [1991 c 16 § 2; (1991 c 3 § 221 repealed by 1991 1st sps. c 11 § 2); 1989 c 300 § 4; 1988 c 267 § 2. Formerly RCW 18.52B.020.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**18.88A.030 Scope of practice—Voluntary certification—Rules.** (1) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(2) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(3) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse

as defined in chapter 18.88 RCW or licensed practical nurse as defined in chapter 18.78 RCW.

(4) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(5) The board of nursing shall have the authority to adopt rules to implement the provisions of this chapter. [1991 c 16 § 3; 1989 c 300 § 5; 1988 c 267 § 3. Formerly RCW 18.52B.030.]

**18.88A.040 Registration and certification.** (1) No person may practice or represent himself or herself as a nursing assistant—registered by use of any title or description without being registered by the department pursuant to this chapter.

(2) After October 1, 1990, no person may by use of any title or description, practice or represent himself or herself as a nursing assistant—certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter. [1991 c 16 § 4; 1989 c 300 § 6; 1988 c 267 § 4. Formerly RCW 18.52B.040.]

**18.88A.050 Powers of secretary.** In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and examinations necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a certificate to any applicant who has met the education, training, and conduct requirements for certification;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates;

(7) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(8) Deny registration to any applicant who fails to meet requirement for registration;

(9) Deny certification to applicants who do not meet the education, training, competency evaluation, and conduct requirements for certification. [1991 c 16 § 6; (1991 c 3 § 222 repealed by 1991 1st sp.s. c 11 § 2); 1989 c 300 § 7; 1988 c 267 § 6. Formerly RCW 18.52B.060.]

**18.88A.060 Powers of state board of nursing.** In addition to any other authority provided by law, the state board of nursing has the authority to:

(1) Determine minimum education requirements and approve training programs;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration

of, examinations of training and competency for applicants for certification;

(3) Determine whether alternative methods of training are equivalent to approved training programs, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination for certification;

(4) Define and approve any experience requirement for certification;

(5) Adopt rules implementing a continuing competency evaluation program;

(6) Adopt rules to enable it to carry into effect the provisions of this chapter. [1991 c 16 § 8; 1989 c 300 § 8; 1988 c 267 § 7. Formerly RCW 18.52B.070.]

**18.88A.070 Advisory committee.** (1) The secretary has the authority to appoint an advisory committee to the state board of nursing and the department to further the purposes of this chapter. The committee shall be composed of ten members, two members initially appointed for a term of one year, three for a term of two years, and four for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. The committee shall consist of: A nursing assistant certified under this chapter, a representative of nursing homes, a representative of the office of the superintendent of public instruction, a representative of the \*state board for community college education, a representative of the department of social and health services responsible for aging and adult services in nursing homes, a consumer of nursing assistant services who shall not be or have been a member of any other licensing board or committee; nor a licensee of any health occupation board, an employee of any health care facility, nor derive primary livelihood from the provision of health services at any level of responsibility, a representative of an acute care hospital, a representative of home health care, and one member who is a licensed (registered) nurse and one member who is a licensed practical nurse.

(2) The secretary may remove any member of the advisory committee for cause as specified by rule. In the case of a vacancy, the secretary shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committee shall meet at the times and places designated by the secretary or the board and shall hold meetings during the year as necessary to provide advice to the secretary. [1991 c 16 § 9; 1991 c 3 § 223; 1989 c 300 § 9; 1988 c 267 § 9. Formerly RCW 18.52B.090.]

**Reviser's note:** (1) This section was amended by 1991 c 3 § 223 and by 1991 c 16 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**18.88A.080 Registration requirements.** (1) The secretary shall issue a registration to any applicant who

pays any applicable fees and submits, on forms provided by the secretary, the applicant's name, address, and other information as determined by the secretary, provided there are no grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

(2) Applicants must file an application with the board for registration within three days of employment. [1991 c 16 § 10; (1991 c 3 § 224 repealed by 1991 1st sp.s. c 11 § 2); 1989 c 300 § 10; 1988 c 267 § 10. Formerly RCW 18.52B.100.]

**18.88A.085 Certification of requirements.** (1) After January 1, 1990, the secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of an approved training program or successful completion of alternate training meeting established criteria approved by the board; and

(b) Successful completion of a competency evaluation.

(2) In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW. [1991 c 16 § 11.]

**18.88A.090 Examinations.** (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The board shall examine each applicant, by a written or oral and a manual component of competency evaluation. Examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of skills demonstration shall be preserved for a period of not less than one year after the board has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The board may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements. [1991 c 3 § 225; 1989 c 300 § 11; 1988 c 267 § 13. Formerly RCW 18.52B.130.]

**18.88A.100 Waiver of examination for initial applications.** The secretary shall waive the competency evaluation and certify a person to practice within the state of

Washington if the board determines that the person meets commonly accepted standards of education and experience for the nursing assistants. This section applies only to those individuals who file an application for waiver by December 31, 1991. [1991 c 16 § 12; 1991 c 3 § 226; 1989 c 300 § 12; 1988 c 267 § 15. Formerly RCW 18.52B.140.]

**Reviser's note:** This section was amended by 1991 c 3 § 226 and by 1991 c 16 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**18.88A.110 Certificates for applicants holding a credential from another state.** An applicant holding a credential in another state may be certified by endorsement to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 16 § 13.]

**18.88A.120 Applications for registration and certification—Fee.** Applications for registration and certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration and certification credentialing provided for in this chapter and chapter 18.120 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application. [1991 c 16 § 14.]

**18.88A.130 Renewal of registration or certification.** The secretary shall establish by rule the procedural requirements and fees for renewal of a registration or certificate. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the board by taking continuing education courses, or meeting other standards determined by the board. [1991 c 16 § 15.]

**18.88A.140 Exemptions.** Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services [is] pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor. [1991 c 16 § 5.]

**18.88A.150 Application of uniform disciplinary act.** The uniform disciplinary act, chapter 18.130 RCW, governs unregistered or uncertified practice, issuance of

certificates and registrations, and the discipline of persons registered or with certificates under this chapter. The secretary shall be the disciplinary authority under this chapter. [1991 c 16 § 7.]

**18.88A.900 Severability—1991 c 16.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 16 § 17.]

### Chapter 18.89

#### RESPIRATORY CARE PRACTITIONERS

##### Sections

18.89.020	Definitions.
18.89.050	Powers of secretary—Application of uniform disciplinary act.
18.89.060	Record of proceedings.
18.89.070	Respiratory care advisory committee—Members—Meetings.
18.89.080	Secretary and advisory committee immune from liability.
18.89.090	Certification—Qualifications.
18.89.100	Certification—Competency requirements.
18.89.110	Certification—Examination.
18.89.120	Certification—Application form—Fee.
18.89.130	Certification—Waiver of examination.
18.89.140	Renewal of certificates.

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

(1) "Advisory committee" means the Washington state advisory respiratory care committee.

(2) "Department" means the department of health.

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Respiratory care practitioner" means an individual certified under this chapter.

(5) "Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

(6) "Rural hospital" means a hospital located anywhere in the state except the following areas:

(a) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(b) Areas within a twenty-mile radius of an urban area with a population exceeding thirty thousand persons; and

(c) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen—Hoquiam, Longview—Kelso, Wenatchee, Yakima, Sunnyside, Richland—Kennewick—Pasco, and Walla Walla. [1991 c 3 § 227; 1987 c 415 § 2.]

**18.89.050 Powers of secretary—Application of uniform disciplinary act.** (1) In addition to any other authority provided by law, the secretary, in consultation with the advisory committee, may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all certification, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a certificate to any applicant who has met the education, training, and examination requirements for certification;

(e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals certified under this chapter to serve as examiners for any practical examinations;

(f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the certification examination;

(g) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification;

(h) Determine whether alternative methods of training are equivalent to formal education and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take the examination;

(i) Determine which states have legal credentialing requirements equivalent to those of this state and issue certificates to individuals legally credentialed in those states without examination; and

(j) Define and approve any experience requirement for certification.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of certificates, uncertified practice, and the disciplining of persons certified under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 228; 1987 c 415 § 6.]

**18.89.060 Record of proceedings.** The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for certification under this chapter, with the result of each application. [1991 c 3 § 229; 1987 c 415 § 7.]

**18.89.070 Respiratory care advisory committee—Members—Meetings.** (1) There is created a state respiratory care advisory committee consisting of five members appointed by the secretary. Three members of the advisory committee shall be respiratory care practitioners who are certified under this chapter. The initial members, however, may be appointed to the advisory committee if they meet all the requirements for certification under this chapter and have been engaged in the practice of respiratory care for at least five years. One member of the advisory committee shall be an individual representing the public who is unaffiliated with the profession. One member of the advisory committee shall be a physician, who is a pulmonary specialist. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first taking office shall expire, as designated at the time

of appointment, one at the end of the first year, one at the end of the second year, one at the end of the third year, and two at the end of the fourth year after the date of appointment. Thereafter all appointments shall be for four years. Any advisory committee member may be removed for just cause. The secretary may appoint a new member to fill any vacancy on the advisory committee for the remainder of the unexpired term. No advisory committee member may serve more than two consecutive terms, whether full or partial.

(2) Advisory committee members shall be entitled to be compensated in accordance with RCW 43.03.240, and to be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(3) The advisory committee shall have the authority to elect annually a chairperson and vice-chairperson to direct the meetings of the advisory committee. The advisory committee shall meet at least once each year, and may hold additional meetings as called by the secretary or the chairperson. Three members of the advisory committee constitute a quorum. [1991 c 3 § 230; 1987 c 415 § 8.]

**18.89.080 Secretary and advisory committee immune from liability.** The secretary, members of the advisory committee, or individuals acting on their behalf are immune from suit in any civil action based on any certification or disciplinary proceedings, or other official acts performed in the course of their duties. [1991 c 3 § 231; 1987 c 415 § 9.]

**18.89.090 Certification—Qualifications.** The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(1) Graduation from a school approved by the secretary or successful completion of alternate training which meets the criteria established by the secretary;

(2) Successful completion of an examination administered or approved by the secretary;

(3) Successful completion of any experience requirement established by the secretary;

(4) Good moral character.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional certificate under chapter 18.130 RCW.

A person who meets the qualifications to be admitted to the examination for certification as a respiratory care practitioner may practice as a respiratory care practitioner under the supervision of a respiratory care practitioner certified under this chapter between the date of filing an application for certification and the announcement of the results of the next succeeding examination for certification if that person applies for and takes the first examination for which he or she is eligible.

The secretary shall establish by rule what constitutes adequate proof of meeting the criteria. [1991 c 3 § 232; 1987 c 415 § 10.]

**18.89.100 Certification—Competency requirements.** The secretary shall approve only those persons

who have achieved the minimum level of competency as defined by the secretary. The secretary shall establish by rule the standards and procedures for approval of alternate training and shall have the authority to contract with individuals or organizations having expertise in the profession, or in education, to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions. [1991 c 3 § 233; 1987 c 415 § 11.]

**18.89.110 Certification—Examination.** (1) The date and location of the examination shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. However, the applicant shall not be scheduled for any examination taking place sooner than sixty days after the application is filed.

(2) The secretary shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently, and shall meet generally accepted standards of fairness and validity for certification examinations.

(3) All examinations shall be conducted by the secretary, and all grading of the examinations shall be under fair and wholly impartial methods.

(4) Any applicant who fails to make the required grade in the first examination is entitled to take up to three subsequent examinations, upon the prepayment of a fee determined by the secretary as provided in RCW 43.70.250 for each subsequent examination. Upon failure of four examinations, the secretary may invalidate the original application and require such remedial education as is deemed necessary.

(5) The secretary may approve an examination prepared and administered by a private testing agency or association of credentialing boards for use by an applicant in meeting the certification requirement. [1991 c 3 § 234; 1987 c 415 § 12.]

**18.89.120 Certification—Application form—Fee.** Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided in this chapter and chapter 18.130 RCW. All applications shall be accompanied by a fee determined by the secretary under RCW 43.70.250. [1991 c 3 § 235; 1987 c 415 § 13.]

**18.89.130 Certification—Waiver of examination.** (1) The secretary shall waive the examination and grant a certificate to a person engaged in the profession of respiratory care in this state on July 26, 1987, if the secretary determines the person meets commonly accepted standards of education and experience for the profession

and has previously achieved an acceptable grade on an approved examination administered by a private testing agency or respiratory care association as established by rule of the secretary.

(2) If an individual is engaged in the practice of respiratory care on July 26, 1987, but has not achieved an acceptable grade on an approved examination administered by a private testing agency, the individual may apply to the secretary for examination. This section shall only apply to those individuals who file an application within one year of July 26, 1987. [1991 c 3 § 236; 1987 c 415 § 14.]

**18.89.140 Renewal of certificates.** The secretary shall establish by rule the requirements and fees for renewal of certificates. Failure to renew shall invalidate the certificate and all privileges granted by the certificate. In the event a certificate has lapsed for a period longer than three years, the certified respiratory care practitioner shall demonstrate competence to the satisfaction of the secretary by continuing education or under the other standards determined by the secretary. [1991 c 3 § 237; 1987 c 415 § 15.]

### Chapter 18.92

## VETERINARY MEDICINE, SURGERY AND DENTISTRY

#### Sections

18.92.012	Authority to dispense legend drugs prescribed by other veterinarians.
18.92.015	Definitions.
18.92.035	Board to certify successful examinees.
18.92.040	Compensation and travel expenses of board members.
18.92.047	Impaired veterinarian program—Content—License surcharge.
18.92.070	Applications—Procedure—Qualifications—Eligibility to take examination.
18.92.100	Examinations—Time of—Subjects—Manner.
18.92.115	Reexamination—Fee.
18.92.120	License—Temporary certificates, restrictions.
18.92.130	License—Reciprocity with other states—Fee.
18.92.135	License to practice specialized veterinary medicine.
18.92.140	License—Renewal.
18.92.145	License, certificates of registration, permit, examination, and renewal fees.

**18.92.012 Authority to dispense legend drugs prescribed by other veterinarians.** A veterinarian licensed under this chapter may dispense veterinary legend drugs prescribed by other veterinarians licensed under this chapter, so long as, during any year, the total drugs so dispensed do not constitute more than five percent of the total dosage units of legend drugs the veterinarian dispenses and the veterinarian maintains records of his or her dispensing activities consistent with the requirements of chapters 18.64, 69.04, 69.41, and 69.50 RCW. For purposes of this section, a "veterinary legend drug" is a legend drug, as defined in chapter 69.41 RCW, which is either: (1) Restricted to use by licensed veterinarians by any law or regulation of the federal government, or (2) designated by rule by the state board of pharmacy as being a legend drug that one licensed veterinarian may

dispense for another licensed veterinarian under this section. [1991 c 47 § 1.]

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

"Animal technician" means a person who has successfully completed an examination administered by the board and who has either successfully completed a post high school course approved by the board in the care and treatment of animals or had five years' practical experience, acceptable to the board, with a licensed veterinarian.

"Board" means the Washington state veterinary board of governors.

"Department" means the department of health.

"Secretary" means the secretary of the department of health. [1991 c 332 § 40; 1991 c 3 § 238; 1983 c 102 § 1; 1979 c 158 § 71; 1974 ex.s. c 44 § 1; 1967 ex.s. c 50 § 1; 1959 c 92 § 2; 1941 c 71 § 21; Rem. Supp. 1941 § 10040-21. Formerly RCW 18.92.010, part.]

**Captions not law—1991 c 332:** See note following RCW 18.130.010.

**18.92.035 Board to certify successful examinees.** The board shall certify to the secretary the names of all applicants who have successfully passed an examination and are entitled to a license to practice veterinary medicine, surgery and dentistry. The secretary shall thereupon issue a license to practice veterinary medicine, surgery and dentistry to such applicant. [1991 c 3 § 239; 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9. Formerly RCW 18.92.030, part.]

**18.92.040 Compensation and travel expenses of board members.** Each member of the board shall be compensated in accordance with RCW 43.70.250 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. No expense may be incurred by members of the board except in connection with board meetings without prior approval of the secretary. [1991 c 3 § 240; 1984 c 287 § 51; 1983 c 102 § 4; 1975-'76 2nd ex.s. c 34 § 53; 1974 ex.s. c 44 § 3; 1967 ex.s. c 50 § 4; 1959 c 92 § 5; 1941 c 71 § 5; 1913 c 79 § 2; 1907 c 124 § 13; Rem. Supp. 1941 § 10040-5.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Severability—Effective date—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**18.92.047 Impaired veterinarian program—Content—License surcharge.** (1) To implement an impaired veterinarian program as authorized by RCW 18.130.175, the veterinary board of governors shall enter into a contract with a voluntary substance abuse monitoring program. The impaired veterinarian program may include any or all of the following:

- Contracting with providers of treatment programs;
- Receiving and evaluating reports of suspected impairment from any source;
- Intervening in cases of verified impairment;

(d) Referring impaired veterinarians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired veterinarians including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired veterinarians; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to twenty-five dollars on each license issuance or renewal of a new license to be collected by the department of health from every veterinarian licensed under chapter 18.92 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired veterinarian program. [1991 c 3 § 241; 1989 c 125 § 2.]

**18.92.070 Applications—Procedure—Qualifications—Eligibility to take examination.** No person, unless registered or licensed to practice veterinary medicine, surgery, and dentistry in this state at the time this chapter shall become operative, shall begin the practice of veterinary medicine, surgery and dentistry without first applying for and obtaining a license for such purpose from the secretary. In order to procure a license to practice veterinary medicine, surgery, and dentistry in the state of Washington, the applicant for such license shall file his or her application at least sixty days prior to date of examination upon a form furnished by the secretary of health, which, in addition to the fee provided by this chapter, shall be accompanied by satisfactory evidence that he or she is at least eighteen years of age and of good moral character, and by official transcripts or other evidence of graduation from a veterinary college satisfactory to and approved by the board. Said application shall be signed by the applicant and sworn to by him or her before some person authorized to administer oaths. When such application and the accompanying evidence are found satisfactory, the secretary shall notify the applicant to appear before the board for the next examination. In addition, applicants shall be subject to grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program as determined by the board, in a veterinary college recognized by the board, to take the examination or any part thereof prior to satisfying the requirements for application for a license: PROVIDED HOWEVER, That no license shall be issued to such applicant until such requirements are satisfied. [1991 c 3 § 242; 1986 c 259 § 141; 1982 c 134 § 3; 1979 c 158 § 72; 1974 ex.s. c 44 § 5; 1971 ex.s. c 292 § 28; 1941 c 71 § 6; Rem. Supp. 1941 § 10040-6. Formerly RCW 18.92.050, part, 18.92.070, part, and 18.92.080, part.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Severability—1971 ex.s. c 292:** See note following RCW 26.28.010.

**18.92.100 Examinations—Time of—Subjects—Manner.** Examinations for license to practice veterinary medicine, surgery and dentistry shall be held at least once each year at such times and places as the secretary may authorize and direct. Said examination, which shall be conducted in the English language shall be, in whole or in part, in writing on the following subjects: Veterinary anatomy, surgery, obstetrics, pathology, chemistry, hygiene, veterinary diagnosis, materia medica, therapeutics, parasitology, physiology, sanitary medicine, and such other subjects which are ordinarily included in the curricula of veterinary colleges, as the board may prescribe. All examinees shall be tested by written examination, supplemented by such oral interviews and practical demonstrations as the board deems necessary. The board may accept the examinee's results on the National Board of Veterinary Examiners in lieu of the written portion of the state examination. [1991 c 3 § 243; 1967 ex.s. c 50 § 6; 1959 c 92 § 7; 1941 c 71 § 7; Rem. Supp. 1941 § 10040-7.]

**18.92.115 Reexamination—Fee.** Any applicant who shall fail to secure the required grade in his first examination may take the next regular veterinary examination. The fee for reexamination shall be determined by the secretary as provided in RCW 43.70.250. [1991 c 3 § 244; 1985 c 7 § 71; 1975 1st ex.s. c 30 § 82; 1967 ex.s. c 50 § 7; 1959 c 92 § 8; 1941 c 71 § 10; Rem. Supp. 1941 § 10040-10. Prior: 1907 c 124 § 17. Formerly RCW 18.92.090, part.]

**18.92.120 License—Temporary certificates, restrictions.** Any person who shall make application for examination, as provided by RCW 18.92.070, and who has not previously failed to pass the veterinary examination, and whose application is found satisfactory by the secretary, may be given a temporary certificate to practice veterinary medicine, surgery and dentistry valid only until the results of the next examination for licenses are available. In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW. No more than one temporary certificate may be issued to any applicant. Such permittee shall be employed by a licensed veterinary practitioner or by the state of Washington. [1991 c 3 § 245; 1986 c 259 § 142; 1967 ex.s. c 50 § 8; 1959 c 92 § 9; 1941 c 71 § 11; 1907 c 124 § 11; Rem. Supp. 1941 § 10040-11.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.92.130 License—Reciprocity with other states—Fee.** Any person who has been lawfully licensed to practice veterinary medicine, surgery, and dentistry in another state or territory which has and maintains a standard for the practice of veterinary medicine, surgery and dentistry which is substantially the same as that maintained in this state, and who has been lawfully and continuously engaged in the practice of

veterinary medicine, surgery and dentistry for two years or more immediately before filing his or her application to practice in this state and who shall submit to the secretary a duly attested certificate from the examining board of the state or territory in which he or she is registered, certifying to the fact of his or her registration and of his or her being a person of good moral character and of professional attainments, may upon the payment of the fee as provided herein, be granted a license to practice veterinary medicine, surgery and dentistry in this state, without being required to take an examination: PROVIDED, HOWEVER, That no license shall be issued to any applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of veterinary medicine, surgery and dentistry within its own borders to veterinarians heretofore and hereafter licensed by this state, and removing to such other state: AND PROVIDED FURTHER, That the secretary of health shall have power to enter into reciprocal relations with other states whose requirements are substantially the same as those provided herein. The board shall make recommendations to the secretary upon all requests for reciprocity. [1991 c 3 § 246; 1959 c 92 § 10; 1941 c 71 § 12; Rem. Supp. 1941 § 10040-12.]

**18.92.135 License to practice specialized veterinary medicine.** (1) The department may issue a license to practice specialized veterinary medicine in this state to a veterinarian who:

(a) Submits an application on a form provided by the secretary for a license in a specialty area recognized by the board by rule;

(b) Holds a current certification as a diplomate of a national specialty board or college recognized by the board by rule in the specialty area for which application is submitted;

(c) Is not subject to license investigation, suspension, revocation, or other disciplinary action in any state, United States territory, or province of Canada;

(d) Has successfully completed an examination established by the board regarding this state's laws and rules regulating the practice of veterinary medicine; and

(e) Provides other information and verification required by the board.

(2) A veterinarian licensed to practice specialized veterinary medicine shall not practice outside his or her licensed specialty unless he or she meets licensing requirements established for practicing veterinary medicine, surgery, and dentistry under RCW 18.92.070 and 18.92.100.

(3) The board shall determine by rule the limits of the practice of veterinary medicine, surgery, and dentistry represented by a license to practice specialized veterinary medicine.

(4) The board may deny, revoke, suspend, or modify a license to practice specialized veterinary medicine if the national specialty board or college certifying the licensee denies, revokes, suspends, modifies, withdraws, or otherwise limits the certification or if the certification expires. [1991 c 332 § 41.]

**Captions not law—1991 c 332:** See note following RCW 18.130.010.

**18.92.140 License—Renewal.** Each person now qualified to practice veterinary medicine, surgery and dentistry or registered as an animal technician in this state or who shall hereafter be licensed or registered to engage in such practice, shall register with the secretary of health annually or on the date prescribed by the secretary and pay the renewal registration fee set by the secretary as provided in RCW 43.70.250. A person who fails to renew a license or certificate prior to its expiration shall be subject to a late renewal fee equal to one-third of the regular renewal fee set by the secretary. [1991 c 3 § 247; 1985 c 7 § 72; 1983 c 102 § 6; 1941 c 71 § 16; Rem. Supp. 1941 § 10040-16. FORMER PARTS OF SECTION: (i) 1941 c 71 § 17; Rem. Supp. 1941 § 10040-17, now codified as RCW 18.92.142. (ii) 1941 c 71 § 19, part; Rem. Supp. 1941 § 10040-19, part, now codified as RCW 18.92.145.]

**18.92.145 License, certificates of registration, permit, examination, and renewal fees.** The secretary shall determine the fees, as provided in RCW 43.70.250, for the issuance, renewal, or administration of the following licenses, certificates of registration, permits, duplicate licenses, renewals, or examination:

(1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;

(2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;

(3) For a certificate of registration as an animal technician;

(4) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee;

(5) For a license to practice specialized veterinary medicine. [1991 c 332 § 42; 1991 c 3 § 248; 1985 c 7 § 73; 1983 c 102 § 7; 1975 1st ex.s. c 30 § 84; 1971 ex.s. c 266 § 20; 1967 ex.s. c 50 § 9; 1959 c 92 § 12; 1941 c 71 § 19; Rem. Supp. 1941 § 10040-19. Prior: 1907 c 124 §§ 9, 10. Formerly RCW 18.92.090 and 18.92.140.]

**Captions not law—1991 c 332:** See note following RCW 18.130.010.

## Chapter 18.100

### PROFESSIONAL SERVICE CORPORATIONS

#### Sections

- |            |  |
|------------|--|
| 18.100.050 | Organization of professional service corporations authorized generally—Provisions applicable to architects, engineers, and health care professionals—Nonprofit corporations. |
| 18.100.116 | Treatment of shares upon death of shareholder or transfer of shares by law or court decree to ineligible person.   |
| 18.100.130 | Application of business corporation act and nonprofit corporation act.   |
| 18.100.133 | Business corporations under Title 23B RCW may elect to conform with this chapter.  |

18.100.134 Professional services—Deletion from stated purposes of corporation.

**18.100.050 Organization of professional service corporations authorized generally—Provisions applicable to architects, engineers, and health care professionals—Nonprofit corporations.** An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of rendering professional service: PROVIDED, That one or more of such legally authorized individuals shall be the incorporators of such professional corporation: PROVIDED FURTHER, That notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation: PROVIDED FURTHER, That licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation: AND PROVIDED FURTHER, That professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation. [1991 c 72 § 3; 1986 c 261 § 1; 1983 c 100 § 1; 1969 c 122 § 5.]

**18.100.116 Treatment of shares upon death of shareholder or transfer of shares by law or court decree to ineligible person.** If a shareholder of a professional corporation dies, or if shares of a professional corporation are transferred by operation of law or court decree to an ineligible person, and if the shares held by the deceased shareholder or by such ineligible person are less than all of the outstanding shares of the corporation:

(1) The shares held by the deceased shareholder or by the ineligible person may be transferred to remaining shareholders of the corporation or may be redeemed by the corporation pursuant to terms stated in the articles of incorporation or by laws of the corporation, or in a private agreement. In the absence of any such terms, such shares may be transferred to any individual eligible to be a shareholder of the corporation.

(2) If such a redemption or transfer of the shares held by a deceased shareholder or an ineligible person is not completed within twelve months after the death of the deceased shareholder or the transfer, as the case may be, such shares shall be deemed to be shares with respect to which the holder has elected to exercise the right of dissent described in chapter 23B.13 RCW and has made written demand on the corporation for payment of the

fair value of such shares. The corporation shall forthwith cancel the shares on its books and the deceased shareholder or ineligible person shall have no further interest in the corporation other than the right to payment for the shares as is provided in RCW 23B.13.250. For purposes of the application of RCW 23B.13.250, the date of the corporate action and the date of the shareholder's written demand shall be deemed to be one day after the date on which the twelve-month period from the death of the deceased shareholder, or from the transfer, expires. [1991 c 72 § 4; 1983 c 51 § 10.]

**18.100.130 Application of business corporation act and nonprofit corporation act.** (1) For a professional service corporation organized for pecuniary profit under this chapter, the provisions of Title 23B RCW shall be applicable except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized pursuant to the provisions of this chapter.

(2) For a professional service corporation organized under this chapter and chapter 24.03 RCW as a nonprofit nonstock corporation, the provisions of chapter 24.03 RCW shall be applicable except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized under the provisions of this chapter. [1991 c 72 § 5; 1986 c 261 § 2; 1983 c 51 § 6; 1969 c 122 § 13.]

**18.100.133 Business corporations under Title 23B RCW may elect to conform with this chapter.** A business corporation formed under the provisions of Title 23B RCW may amend its articles of incorporation to change its stated purpose to the rendering of professional services and to conform to the requirements of this chapter. Upon the effective date of such amendment, the corporation shall be subject to the provisions of this chapter and shall continue in existence as a professional corporation under this chapter. [1991 c 72 § 6; 1986 c 261 § 5.]

**18.100.134 Professional services—Deletion from stated purposes of corporation.** A professional corporation may amend its articles of incorporation to delete from its stated purposes the rendering of professional services and to conform to the requirements of Title 23B RCW, or to the requirements of chapter 24.03 RCW if organized pursuant to RCW 18.100.050 as a nonprofit nonstock corporation. Upon the effective date of such amendment, the corporation shall no longer be subject to the provisions of this chapter and shall continue in existence as a corporation under Title 23B RCW or chapter 24.03 RCW. [1991 c 72 § 7; 1986 c 261 § 3; 1983 c 51 § 9.]

## Chapter 18.104

## WATER WELL CONSTRUCTION

## Sections

18.104.040	Powers of department.
18.104.080	Examinations—Subjects—Times and places.
18.104.110	Suspension or revocation of licenses—Grounds—Duration.

**18.104.040 Powers of department.** The department shall have the power:

(1) To issue, deny, suspend or revoke licenses pursuant to the provisions of this chapter;

(2) To enter upon lands for the purpose of inspecting any water well, drilled or being drilled, at all reasonable times;

(3) To call upon or receive professional or technical advice from any public agency or any person;

(4) To make such rules governing licensing hereunder and water well construction as may be appropriate to carry out the purposes of this chapter. Without limiting the generality of the foregoing, the department may in cooperation with the department of health make rules regarding:

(a) Standards for the construction and maintenance of water wells and their casings;

(b) Methods of sealing artesian wells and water wells to be abandoned or which may contaminate other water resources;

(c) Methods of artificial recharge of ground water bodies and of construction of wells which insure separation of individual water bearing formations;

(d) The manner of conducting and the content of examinations required to be taken by applicants for license hereunder;

(e) Reporting requirements of water well contractors;

(f) Limitations on water well construction in areas identified by the department as requiring intensive control of withdrawals in the interests of sound management of the ground water resource. [1991 c 3 § 249; 1971 ex.s. c 212 § 4.]

**18.104.080 Examinations—Subjects—Times and places.** The examination, which is made a prerequisite for obtaining a license hereunder, shall be prepared to test knowledge and understanding of the following subjects:

(1) Washington ground water laws as they relate to well construction;

(2) Sanitary standards for water well drilling and construction of water wells;

(3) Types of water well construction;

(4) Drilling tools and equipment;

(5) Underground geology as it relates to water well construction; and

(6) Rules of the department and the department of health relating to water well construction.

Examinations shall be held at such times and places as may be determined by the department but not later than thirty days after an applicant has filed a completed application with the department. The department shall

make a determination of the applicant's qualifications for a license within ten days after the examination. [1991 c 3 § 250; 1971 ex.s. c 212 § 8.]

**18.104.110 Suspension or revocation of licenses—Grounds—Duration.** In cases other than those relating to the failure of a licensee to renew a license, any license issued hereunder may be suspended or revoked by the director for any of the following reasons:

(1) For fraud or deception in obtaining the license;

(2) For fraud or deception in reporting under RCW 18.104.050;

(3) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

No license shall be suspended for more than six months. No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation. [1991 c 3 § 251; 1971 ex.s. c 212 § 11.]

## Chapter 18.108

## MASSAGE PRACTITIONERS

## Sections

18.108.010	Definitions.
18.108.020	Board of massage—Generally.
18.108.025	Board powers and duties.
18.108.040	Advertising practice of massage by unlicensed person unlawful.
18.108.060	License—Issuance—Expiration—Renewal—Fees.
18.108.070	Qualifications for license.
18.108.073	Examination.
18.108.085	Powers and duties of secretary—Application of uniform disciplinary act.

**18.108.010 Definitions.** In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Board" means the Washington state board of massage.

(2) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes massage techniques such as methods of effleurage, petrissage, tapotement, tapping, compressions, vibration, friction, nerve strokes, and Swedish gymnastics or movements either by manual means, as they relate to massage, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force.

(3) "Massage practitioner" means an individual licensed under this chapter.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) Massage business means the operation of a business where massages are given. [1991 c 3 § 252; 1987 c 443 § 2; 1979 c 158 § 74; 1975 1st ex.s. c 280 § 1.]

**18.108.020 Board of massage—Generally.** The Washington state board of massage is hereby created. The board shall consist of four members who shall be appointed by the governor for a term of four years each. Members shall be residents of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be licensed under this chapter and actively engaged in the practice of massage during their incumbency.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of four years. The consumer member of the board shall be an individual who does not derive his or her livelihood by providing health care services or massage therapy and is not a licensed health professional. The consumer member shall not be an employee of the state nor a present or former member of another licensing board.

In the event that a member cannot complete his or her term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms whether full or partial. The governor may remove any member of the board for neglect of duty, incompetence, or unprofessional or disorderly conduct as determined under chapter 18.130 RCW.

Each member of the board shall be compensated in accordance with RCW 43.03.240. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060.

The board may annually elect a chairperson to direct the meetings of the board. The board shall meet as called by the chairperson or the secretary. Three members of the board shall constitute a quorum of the board. [1991 c 3 § 253; 1987 c 443 § 9. Prior: 1984 c 287 § 53; 1984 c 279 § 56; 1975-'76 2nd ex.s. c 34 § 57; 1975 1st ex.s. c 280 § 2.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Severability—1984 c 279:** See RCW 18.130.901.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**18.108.025 Board powers and duties.** In addition to any other authority provided by law, the board may:

- (1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter, subject to the approval of the secretary;
- (2) Define, evaluate, approve, and designate those schools, programs, and apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the licensing examination;
- (3) Review approved schools and programs periodically;
- (4) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for licensure; and

(5) Determine which states have educational and licensing requirements equivalent to those of this state.

The board shall establish by rule the standards and procedures for approving courses of study and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall apply equally to schools and training within the United States of America and those in foreign jurisdictions. [1991 c 3 § 254; 1987 c 443 § 10.]

**18.108.040 Advertising practice of massage by unlicensed person unlawful.** It shall be unlawful to advertise the practice of massage using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the secretary as a massage practitioner. Any person who holds a license to practice as a massage practitioner in this state may use the title "licensed massage practitioner" and the abbreviation "L.M.P.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage practitioner. [1991 c 3 § 255; 1987 c 443 § 4; 1975 1st ex.s. c 280 § 4.]

**18.108.060 License—Issuance—Expiration—Renewal—Fees.** All licenses issued under the provisions of this chapter, unless otherwise provided shall expire on the annual anniversary date of the individual's date of birth.

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

Every applicant for a license shall pay an examination fee determined by the secretary as provided in RCW 43.70.250, which fee shall accompany their application. Applications for licensure shall be submitted on forms provided by the secretary.

Applicants granted a license under this chapter shall pay to the secretary a license fee determined by the secretary as provided in RCW 43.70.250, prior to the issuance of their license, and an annual renewal fee determined by the secretary as provided in RCW 43.70.250. Failure to renew shall invalidate the license and all privileges granted to the licensee, but such license may be reinstated upon written application to the secretary and payment to the state of all delinquent fees and penalties as determined by the secretary. In the event a license has lapsed for a period longer than three years, the licensee shall demonstrate competence to the satisfaction of the secretary by proof of continuing education or other standard determined by the secretary with the advice of the board. [1991 c 3 § 256; 1987 c 443 § 6; 1985 c 7 § 79; 1975 1st ex.s. c 280 § 6.]

**18.108.070 Qualifications for license.** The secretary shall issue a massage practitioner's license to an applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

- (1) Effective June 1, 1988, successful completion of a course of study in an approved massage program or approved apprenticeship program;
- (2) Successful completion of an examination administered or approved by the board; and
- (3) Be eighteen years of age or older.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The secretary shall establish by rule what constitutes adequate proof of meeting the criteria. The board shall give an appropriate alternate form of examination for persons who cannot read or speak English to determine equivalent competency. [1991 c 3 § 257; 1987 c 443 § 7; 1975 1st ex.s. c 280 § 7.]

**18.108.073 Examination.** (1) The date and location of the examination shall be established by the secretary. Applicants who demonstrate to the secretary's satisfaction that the following requirements have been met shall be scheduled for the next examination following the filing of the application:

- (a) Effective June 1, 1988, successful completion of a course of study in an approved massage program; or
- (b) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and
- (c) Be eighteen years of age or older.

In addition, completed and approved applications shall be received sixty days before the scheduled examination.

(2) The board or its designee shall examine each applicant in a written and practical examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of examinations, and the grading of any practical work, shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) An applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of

three examinations, the secretary may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by an applicant in meeting the licensing requirement. [1991 c 3 § 258; 1987 c 443 § 8.]

**18.108.085 Powers and duties of secretary—Application of uniform disciplinary act.** (1) In addition to any other authority provided by law, the secretary may:

- (a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;
- (c) Establish forms and procedures necessary to administer this chapter;
- (d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure; and
- (e) Hire clerical, administrative, and investigative staff as necessary to implement this chapter, and hire individuals licensed under this chapter to serve as examiners for any practical examinations.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the disciplining of persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure under this chapter, with the result of each application. [1991 c 3 § 259; 1987 c 443 § 11.]

## Chapter 18.118

### REGULATION OF BUSINESS PROFESSIONS

#### Sections

18.118.010 Purpose—Intent.

**18.118.010 Purpose—Intent.** (1) The purpose of this chapter is to establish guidelines for the regulation of the real estate profession and other business professions which may seek legislation to substantially increase their scope of practice or the level of regulation of the profession, and for the regulation of business professions not licensed or regulated on July 26, 1987: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 26, 1987, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education under RCW 28A.305.130 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by

prayer; (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 26, 1987; and (e) apply to proposals relating solely to continuing education. The legislature believes that all individuals should be permitted to enter into a business profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall be imposed upon any business profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a business profession for the first time should be reviewed according to the following criteria. A business profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a business profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the business profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing. [1990 c 33 § 553; 1987 c 514 § 4.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

## Chapter 18.120

### REGULATION OF HEALTH PROFESSIONS— CRITERIA

#### Sections

- 18.120.010 Purpose—Criteria.  
18.120.030 Applicants for regulation—Information.

**18.120.010 Purpose—Criteria.** (1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to July 24, 1983, and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 24, 1983, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education under RCW 28A.305.130 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 24, 1983. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after July 24, 1983, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing. [1990 c 33 § 554; 1983 c 168 § 1.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**18.120.030 Applicants for regulation—Information.** After July 24, 1983, if appropriate, applicant groups shall explain each of the following factors to the extent requested by the legislative committees of reference:

(1) A definition of the problem and why regulation is necessary:

(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety;

(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession; and

(c) The extent of autonomy a practitioner has, as indicated by:

(i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and

(ii) The extent to which practitioners are supervised;

(2) The efforts made to address the problem:

(a) Voluntary efforts, if any, by members of the health profession to:

(i) Establish a code of ethics; or

(ii) Help resolve disputes between health practitioners and consumers; and

(b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem;

(3) The alternatives considered:

(a) Regulation of business employers or practitioners rather than employee practitioners;

(b) Regulation of the program or service rather than the individual practitioners;

(c) Registration of all practitioners;

(d) Certification of all practitioners;

(e) Other alternatives;

(f) Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and

(g) Why licensing would serve to protect the public interest;

(4) The benefit to the public if regulation is granted:

(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation;

(b) Whether the public can identify qualified practitioners;

(c) The extent to which the public can be confident that qualified practitioners are competent:

(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system;

(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date;

(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions;

(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met; and

(vi) What additional training programs are anticipated to be necessary to assure training accessible statewide; the anticipated time required to establish the additional training programs; the types of institutions capable of providing the training; a description of how training programs will meet the needs of the expected work force, including reentry workers, minorities, placebound students, and others;

(d) Assurance of the public that practitioners have maintained their competence:

(i) Whether the registration, certification, or licensure will carry an expiration date; and

(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(5) The extent to which regulation might harm the public:

(a) The extent to which regulation will restrict entry into the health profession:

(i) Whether the proposed standards are more restrictive than necessary to insure safe and effective performance; and

(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state; and

(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;

(6) The maintenance of standards:

(a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(b) How the proposed legislation will assure quality:

(i) The extent to which a code of ethics, if any, will be adopted; and

(ii) The grounds for suspension or revocation of registration, certification, or licensure;

(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice; and

(8) The expected costs of regulation:

(a) The impact registration, certification, or licensure will have on the costs of the services to the public;

(b) The cost to the state and to the general public of implementing the proposed legislation; and

(c) The cost to the state and the members of the group proposed for regulation for the required education, including projected tuition and expenses and expected increases in training programs, staffing, and enrollments at state training institutions. [1991 c 332 § 6; 1983 c 168 § 3.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

## Chapter 18.122

### REGULATION OF HEALTH PROFESSIONS— UNIFORM ADMINISTRATIVE PROVISIONS

#### Sections

18.122.040	Exemptions.
18.122.060	Record of proceedings.
18.122.070	Advisory committees.
18.122.080	Credentialing requirements.
18.122.090	Approval of educational programs.

18.122.120 Waiver of examination for initial applications.

18.122.130 Endorsement.

18.122.140 Renewals.

18.122.150 Application of uniform disciplinary act.

**18.122.040 Exemptions.** Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor. [1991 c 3 § 260; 1987 c 150 § 64.]

**18.122.060 Record of proceedings.** The secretary shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for credentialing under this chapter and the results of each application. [1991 c 3 § 261; 1987 c 150 § 66.]

**18.122.070 Advisory committees.** (1) The secretary has the authority to appoint advisory committees to further the purposes of this chapter. Each such committee shall be composed of five members, one member initially appointed for a term of one year, two for a term of two years, and two for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of an advisory committee shall be residents of this state. Each committee shall be composed of three individuals registered, certified, or licensed in the category designated, and two members who represent the public at large and are unaffiliated directly or indirectly with the profession being credentialled.

(2) The secretary may remove any member of the advisory committees for cause as specified by rule. In the case of a vacancy, the secretary shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committees shall each meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the director. The committee may elect a chair and a vice chair. A majority of the members currently serving shall constitute a quorum.

(4) Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committees.

(5) The secretary, members of advisory committees, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official

acts performed in the course of their duties. [1991 c 3 § 262; 1987 c 150 § 67.]

**18.122.080 Credentialing requirements.** (1) The secretary shall issue a license or certificate, as appropriate, to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Graduation from an educational program approved by the secretary or successful completion of alternate training meeting established criteria;

(b) Successful completion of an approved examination; and

(c) Successful completion of any experience requirement established by the secretary.

(2) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) In addition, applicants shall be subject to the grounds for denial of a license or certificate or issuance of a conditional license or certificate under chapter 18.130 RCW.

(4) The secretary shall issue a registration to any applicant who completes an application which identifies the name and address of the applicant, the registration being requested, and information required by the secretary necessary to establish whether there are grounds for denial of a registration or issuance of a conditional registration under chapter 18.130 RCW. [1991 c 3 § 263; 1987 c 150 § 68.]

**18.122.090 Approval of educational programs.** The secretary shall establish by rule the standards and procedures for approval of educational programs and alternative training. The secretary may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The secretary shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The secretary may establish a fee for educational program evaluations. [1991 c 3 § 264; 1987 c 150 § 69.]

**18.122.120 Waiver of examination for initial applications.** The secretary shall waive the examination and credential a person authorized to practice within the state of Washington if the secretary determines that the person meets commonly accepted standards of education and experience for the profession. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice. [1991 c 3 § 265; 1987 c 150 § 72.]

**18.122.130 Endorsement.** An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 3 § 266; 1987 c 150 § 73.]

**18.122.140 Renewals.** The secretary shall establish by rule the procedural requirements and fees for renewal of a credential. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a license or certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by taking continuing education courses, or meeting other standards determined by the secretary. [1991 c 3 § 267; 1987 c 150 § 74.]

**18.122.150 Application of uniform disciplinary act.** The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of credentials, unauthorized practice, and the discipline of persons credentialed under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 268; 1987 c 150 § 75.]

### Chapter 18.130

#### REGULATION OF HEALTH PROFESSIONS— UNIFORM DISCIPLINARY ACT

##### Sections

18.130.010	Intent.
18.130.040	Application of chapter to certain professions—Authority of secretary—Authority to grant or deny licenses.
18.130.060	Additional authority of secretary.
18.130.075	Temporary practice permits—Penalties.
18.130.175	Voluntary substance abuse monitoring programs.
18.130.180	Unprofessional conduct.
18.130.190	Practice without license—Investigation of complaints—Temporary cease and desist orders—Injunctions—Penalty.
18.130.250	Retired active license status.
18.130.270	Continuing competency pilot projects.

**18.130.010 Intent.** It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the licensure of health care professionals and the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

It is also the intent of the legislature that all health and health-related professions newly credentialed by the state come under the uniform disciplinary act.

Further, the legislature declares that the addition of public members on all health care boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care. [1991 c 332 § 1; 1986 c 259 § 1; 1984 c 279 § 1.]

**Application to scope of practice—1991 c 332:** "Nothing in sections 1 through 39 of this act is intended to change the scope of practice of any health care profession referred to in sections 1 through 39 of this act." [1991 c 332 § 46.]

**Captions not law—1991 c 332:** "Section captions and part headings as used in this act constitute no part of the law." [1991 c 332 § 43.]

**Severability—1986 c 259:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder

of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 259 § 152.]

**18.130.040 Application of chapter to certain professions—Authority of secretary—Authority to grant or deny licenses.** (1) This chapter applies only to the secretary and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators;

(xii) Nursing assistants registered or certified under \*\*chapter 18.52B RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW; and

(xiv) Sex offender treatment providers certified under chapter 18.155 RCW.

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

(i) The \*podiatry board as established in chapter 18.22 RCW;

(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

(iii) The dental disciplinary board as established in chapter 18.32 RCW;

(iv) The council on hearing aids as established in chapter 18.35 RCW;

(v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;

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

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

(viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

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

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

(xii) The board of practical nursing as established in chapter 18.78 RCW;

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

(xiv) The board of nursing as established in chapter 18.88 RCW; and

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority. [1990 c 3 § 810. Prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

**Reviser's note:** \*(1) The "podiatry board" was changed to the "podiatric medical board" by 1990 c 147.

\*\* (2) Chapter 18.52B RCW was repealed by 1991 c 16 § 16.

**Index, part beadings not law—Severability—Effective dates—Application—**1990 c 3: See RCW 18.155.900 through 18.155.902.

**Severability—**1987 c 512: See RCW 18.19.901.

**Severability—**1987 c 447: See RCW 18.36A.901.

**Severability—**1987 c 415: See RCW 18.89.901.

**Effective date—Severability—**1987 c 412: See RCW 18.84.901 and 18.84.902.

**Severability—**1987 c 150: See RCW 18.122.901.

**Severability—**1986 c 259: See note following RCW 18.130.010.

**18.130.060 Additional authority of secretary.** In addition to the authority specified in RCW 18.130.050, the secretary has the following additional authority:

(1) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint not more than three pro tem members for the purpose of participating as members of one or more committees of the board in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of

the board. While serving as board members pro tem, persons so appointed have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board. The chairperson of a committee shall be a regular member of the board appointed by the board chairperson. Committees have authority to act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through committees does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board committees may make interim orders and issue final decisions with respect to matters and cases delegated to the committee by the board. Final decisions may be appealed as provided in chapter 34.05 RCW, the Administrative Procedure Act;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency adjudicative proceeding as authorized by RCW 34.05.446;

(4) To conduct investigations and practice reviews at the direction of the disciplining authority and to issue subpoenas, administer oaths, and take depositions in the course of conducting those investigations and practice reviews at the direction of the disciplining authority. [1991 c 3 § 269; 1989 c 175 § 68; 1987 c 150 § 3; 1984 c 279 § 6.]

**Effective date**—1989 c 175: See note following RCW 34.05.010.

**Severability**—1987 c 150: See RCW 18.122.901.

**18.130.075 Temporary practice permits—Penalties.** If an individual licensed in another state, that has licensing standards substantially equivalent to Washington, applies for a license, the disciplining authority shall issue a temporary practice permit authorizing the applicant to practice the profession pending completion of documentation that the applicant meets the requirements for a license and is also not subject to denial of a license or issuance of a conditional license under this chapter. The temporary permit may reflect statutory limitations on the scope of practice. The permit shall be issued only upon the disciplining authority receiving verification from the states in which the applicant is licensed that the applicant is currently licensed and is not subject to charges or disciplinary action for unprofessional conduct or impairment. Notwithstanding RCW 34.05.422(3), the disciplining authority shall establish, by rule, the duration of the temporary practice permits. Failure to surrender the permit is a misdemeanor under RCW 9A.20.010 and shall be unprofessional conduct under this chapter. The issuance of temporary permits is subject to the provisions of this chapter, including summary suspensions. [1991 c 332 § 2.]

**Application to scope of practice—Captions not law**—1991 c 332: See notes following RCW 18.130.010.

[1990-91 RCW Supp—page 284]

**18.130.175 Voluntary substance abuse monitoring programs.** (1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or drug treatment shall be provided by \*approved treatment facilities under RCW 70.96A.020(2): PROVIDED, That nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or drug treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license

holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, leg- end drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the au- thority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to im- munity shall include:

- (i) An approved monitoring treatment program;
- (ii) The professional association operating the program;
- (iii) Members, employees, or agents of the program or association;
- (iv) Persons reporting a license holder as being im- paired or providing information about the license hold- er's impairment; and
- (v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The immunity provided in this section is in addi- tion to any other immunity provided by law.

(8) In addition to health care professionals governed by this chapter, this section also applies to pharmacists under chapter 18.64 RCW and pharmacy assistants un- der chapter 18.64A RCW. For that purpose, the board of pharmacy shall be deemed to be the disciplining au- thority and the substance abuse monitoring program shall be in lieu of disciplinary action under RCW 18.64- .160 or 18.64A.050. The board of pharmacy shall adjust license fees to offset the costs of this program. [1991 c 3 § 270; 1988 c 247 § 2.]

**\*Reviser's note:** The term "approved treatment facility" was changed to "approved treatment program" by 1989 c 270 § 3, and is defined in RCW 70.96A.020(3).

**Legislative intent—1988 c 247:** "Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their pro- fession in a way which safeguards the public. The legislature specifi- cally intends that the disciplining authorities establish an alternative

program to the traditional administrative proceedings against such health professionals." [1988 c 247 § 1.]

**18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the ju- risdiction of this chapter:

(1) The commission of any act involving moral turpi- tude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the en- suing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indict- ment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the convic- tion and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unrea- sonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the indi- vidual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement be- ing conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, prescription for use, or distri- bution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled sub- stances for oneself;

(7) Violation of any state or federal statute or admin- istrative rule regulating the profession in question, in- cluding any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining author- ity by:

- (a) Not furnishing any papers or documents;
- (b) Not furnishing in writing a full and complete ex- planation covering the matter contained in the complaint filed with the disciplining authority; or

(c) Not responding to subpoenas issued by the disci- plining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplining authority or an assurance of discontinuance entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards. [1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 18.]

**Reviser's note:** This section was amended by 1991 c 215 § 3 and by 1991 c 332 § 34, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.190 Practice without license—Investigation of complaints—Temporary cease and desist orders—Injunctions—Penalty.** (1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050. The secretary shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(2) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account. [1991 c 3 § 271. Prior: 1989 c 373 § 20; 1989 c 175 § 71; 1987 c 150 § 7; 1986 c 259 § 11; 1984 c 279 § 19.]

**Severability—1989 c 373:** See RCW 7.21.900.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.250 Retired active license status.** The disciplining authority may adopt rules pursuant to this section authorizing a retired active license status. An individual credentialed by a disciplining authority regulated in the state under RCW 18.130.040, who is practicing only in emergent or intermittent circumstances as defined by rule established by the disciplining authority, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250. Such a license shall meet the continuing education or continued competency requirements, if any, established by the disciplining authority for renewals, and is subject to the provisions of this chapter. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section. [1991 c 229 § 1.]

**18.130.270 Continuing competency pilot projects.** The disciplinary authorities are authorized to develop and require licensees' participation in continuing competency pilot projects for the purpose of developing flexible, cost-efficient, effective, and geographically accessible competency assurance methods. The secretary shall establish criteria for development of pilot projects and shall select the disciplinary authorities that will participate from among the professions requesting participation. The department shall administer the projects in mutual cooperation with the disciplinary authority and shall allot and administer the budget for each pilot project. The department shall report to the legislature in January of each odd-numbered year concerning the progress and findings of the projects and shall make recommendations on the expansion of continued competency requirements to other licensed health professions.

Each disciplinary authority shall establish its pilot project in rule and may support the projects from a surcharge on each of the affected profession's license renewal in an amount established by the secretary. [1991 c 332 § 3.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**Chapter 18.135**

**HEALTH CARE ASSISTANTS**

Sections

- 18.135.020 Definitions.
- 18.135.030 Requirements for certification—Rules.
- 18.135.050 Health care facility or health care practitioner may certify—Roster—Recertification.
- 18.135.055 Registering an initial or continuing certification—Fee.
- 18.135.065 Delegation—Duties of delegator and delegatee.
- 18.135.080 Violations—Decertification.

**18.135.020 Definitions.** As used in this chapter:  
 (1) "Secretary" means the secretary of health.  
 (2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter.

(3) "Health care practitioner" means:  
 (a) A physician licensed under chapter 18.71 RCW;  
 (b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW; or  
 (c) Acting within the scope of their respective licensures, a \*podiatrist licensed under chapter 18.22 RCW or a registered nurse licensed under chapter 18.88 RCW.

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, blood bank federally licensed under 21 C.F.R. 607, or clinical laboratory certified under 20 C.F.R. 405.1301-16.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee. [1991 c 3 § 272; 1986 c 115 § 2; 1984 c 281 § 2.]

**\*Reviser's note:** The term "podiatrist" was changed to "podiatric physician and surgeon" by 1990 c 147.

**18.135.030 Requirements for certification—Rules.** The secretary, or the secretary's designee, with the advice of designees of the board of medical examiners, the board of osteopathic medicine and surgery, the podiatry board, and the board of nursing, shall adopt rules necessary to administer, implement, and enforce this chapter and establish the minimum requirements necessary for a health care facility or health care practitioner to certify a health care assistant capable of performing the functions authorized in this chapter. The rules shall establish minimum requirements for each and every category of health care assistant. Said rules shall be adopted after fair consideration of input from representatives of each category. These requirements shall ensure that the public health and welfare are protected and shall include, but not be limited to, the following factors:

- (1) The education and occupational qualifications for the health care assistant category;
- (2) The work experience for the health care assistant category;
- (3) The instruction and training provided for the health care assistant category; and
- (4) The types of drugs or diagnostic agents which may be administered by injection by health care assistants working in a hospital or nursing home. The rules established pursuant to this subsection shall not prohibit health care assistants working in a health care facility other than a nursing home or hospital from performing

the functions authorized under this chapter. [1991 c 3 § 273; 1986 c 216 § 2; 1984 c 281 § 4.]

**18.135.050 Health care facility or health care practitioner may certify—Roster—Recertification.** (1) Any health care facility may certify a health care assistant to perform the functions authorized in this chapter in that health care facility; and any health care practitioner may certify a health care assistant capable of performing such services in any health care facility, or in his or her office, under a health care practitioner's supervision. Before certifying the health care assistant, the health care facility or health care practitioner shall verify that the health care assistant has met the minimum requirements established by the secretary under this chapter. These requirements shall not prevent the certifying entity from imposing such additional standards as the certifying entity considers appropriate. The health care facility or health care practitioner shall provide the licensing authority with a certified roster of health care assistants who are certified.

(2) Certification of a health care assistant shall be effective for a period of two years. Recertification is required at the end of this period. Requirements for recertification shall be established by rule. [1991 c 3 § 274; 1984 c 281 § 5.]

**18.135.055 Registering an initial or continuing certification—Fee.** The health care facility or health care practitioner registering an initial or continuing certification pursuant to the provisions of this chapter shall pay a fee determined by the secretary as provided in RCW 43.70.250.

All fees collected under this section shall be credited to the health professions account as required in RCW 43.70.320. [1991 c 3 § 275; 1985 c 117 § 1.]

**18.135.065 Delegation—Duties of delegator and delegatee.** (1) Each delegator, as defined under RCW 18.135.020(6) shall maintain a list of specific medications, diagnostic agents, and the route of administration of each that he or she has authorized for injection. Both the delegator and delegatee shall sign the above list, indicating the date of each signature. The signed list shall be forwarded to the secretary of the department of health and shall be available for review.

(2) Delegates are prohibited from administering any controlled substance as defined in RCW 69.50.101(d), any experimental drug, and any cancer chemotherapy agent unless a delegator is physically present in the immediate area where the drug is administered. [1991 c 3 § 276; 1986 c 216 § 4.]

**18.135.080 Violations—Decertification.** The secretary or the secretary's designee shall decertify a health care assistant based on a finding that the assistant has obtained certification through misrepresentation or concealment of a material fact or has engaged in unsafe or negligent practices. [1991 c 3 § 277; 1984 c 281 § 8.]

## Chapter 18.138

### DIETITIANS AND NUTRITIONISTS

#### Sections

18.138.010	Definitions.
18.138.020	Certification required.
18.138.030	Qualifications for certification.
18.138.040	Certification—Application fee.
18.138.050	Certification without examination.
18.138.060	Renewal of certification—Fee.
18.138.070	Authority of secretary.
18.138.080	Advisory committee.
18.138.090	Application of uniform disciplinary act.

**18.138.010 Definitions.** (1) "Dietetics" is the integration and application of scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences in counseling people to achieve and maintain health. Unique functions of dietetics include, but are not limited to:

(a) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data for clinical, research, and program planning purposes;

(b) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling and education as components of preventive, curative, and restorative health care;

(d) Developing, implementing, managing, and evaluating nutrition care systems; and

(e) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(2) "General nutrition services" means the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance, which includes, but is not restricted to:

(a) Assessing the nutritional needs of individuals and groups by planning, organizing, coordinating, and evaluating the nutrition components of community health care services;

(b) Supervising, administering, or teaching normal nutrition in colleges, universities, clinics, group care homes, nursing homes, hospitals, private industry, and group meetings.

(3) "Certified dietitian" means any person certified to practice dietetics under this chapter.

(4) "Certified nutritionist" means any person certified to provide general nutrition services under this chapter.

(5) "Department" means the department of health.

(6) "Secretary" means the secretary of health or the secretary's designee. [1991 c 3 § 278; 1988 c 277 § 1.]

**18.138.020 Certification required.** (1) No persons shall represent themselves as certified dietitians or certified nutritionists unless certified as provided for in this chapter.

(2) Persons represent themselves as certified dietitians or certified nutritionists when any title or any description of services is used which incorporates one or more

of the following items or designations: "Certified dietitian," "certified dietitian," "certified nutritionist," "D.," "C.D.," or "C.N."

(3) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is certified under this chapter. [1991 c 3 § 279; 1988 c 277 § 2.]

**18.138.030 Qualifications for certification.** (1) An applicant applying for certification as a certified dietitian or certified nutritionist shall file a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require, and proof that the candidate has met qualifications set forth below in subsection (2) or (3) of this section.

(2) Any person seeking certification as a "certified dietitian" shall meet the following qualifications:

(a) Be eighteen years of age or older;

(b) Has satisfactorily completed a major course of study in human nutrition, foods and nutrition, dietetics, or food systems management, and has received a baccalaureate or higher degree from a college or university accredited by the Western association of schools and colleges or a similar accreditation agency or colleges and universities approved by the secretary in rule;

(c) Demonstrates evidence of having successfully completed a planned continuous preprofessional experience in dietetic practice of not less than nine hundred hours under the supervision of a certified dietitian or a registered dietitian or demonstrates completion of a coordinated undergraduate program in dietetics, both of which meet the training criteria established by the secretary;

(d) Has satisfactorily completed an examination for dietitians administered by a public or private agency or institution recognized by the secretary as qualified to administer the examination; and

(e) Has satisfactorily completed courses of continuing education as currently established by the secretary.

(3) An individual may be certified as a certified dietitian if he or she provides evidence of meeting criteria for registration on June 9, 1988, by the commission on dietetic registration.

(4) Any person seeking certification as a "certified nutritionist" shall meet the following qualifications:

(a) Possess the qualifications required to be a certified dietitian; or

(b) Has received a master's degree or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by the Western association of schools and colleges or a similar accrediting agency or colleges and universities approved by the secretary in rule. [1991 c 3 § 280; 1988 c 277 § 3.]

**18.138.040 Certification—Application fee.** (1) If the applicant meets the qualifications as outlined in

RCW 18.138.030(2), the secretary shall confer on such candidates the title certified dietitian.

(2) If the applicant meets the qualifications as outlined in RCW 18.138.030(4), the secretary shall confer on such candidates the title certified nutritionist.

(3) The application fee in an amount determined by the secretary shall accompany the application for certification as a certified dietitian or certified nutritionist. [1991 c 3 § 281; 1988 c 277 § 4.]

**18.138.050 Certification without examination.** The secretary may certify a person applying for the title "certified dietitian" without examination if such person is licensed or certified as a dietitian in another jurisdiction and if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state. [1991 c 3 § 282; 1988 c 277 § 6.]

**18.138.060 Renewal of certification—Fee.** (1) Every person certified as a certified dietitian or certified nutritionist shall pay a renewal registration fee determined by the secretary as provided in RCW 43.70.250. The certificate of the person shall be renewed for a period of one year or longer at the discretion of the secretary.

(2) Any failure to register and pay the annual renewal registration fee shall render the certificate invalid. The certificate shall be reinstated upon: (a) Written application to the secretary; (b) payment to the state of a penalty fee determined by the secretary; and (c) payment to the state of all delinquent annual certificate renewal fees.

(3) Any person who fails to renew his or her certification for a period of three years shall not be entitled to renew such certification under this section. Such person, in order to obtain a certification as a certified dietitian or certified nutritionist in this state, shall file a new application under this chapter, along with the required fee, and shall meet all requirements as the secretary provides.

(4) All fees collected under this section shall be credited to the health professions account as required. [1991 c 3 § 283; 1988 c 277 § 7.]

**18.138.070 Authority of secretary.** In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a certificate to an applicant who has met the requirements for certification and deny a certificate to an applicant who does not meet the minimum qualifications;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those certified under this chapter, to serve as consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and certificate holders;

(6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal of a denial of certification based on the applicant's failure to meet the minimum qualifications for certification;

(7) Investigate alleged violations of this chapter and consumer complaints involving the practice of persons representing themselves as certified dietitians or certified nutritionists;

(8) Issue subpoenas, statements of charges, statements of intent to deny certifications, and orders and delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements on intent to deny certifications;

(9) Conduct disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it in accordance with chapter 34.05 RCW;

(10) Set all certification, renewal, and late renewal fees in accordance with RCW 43.70.250; and

(11) Set certification expiration dates and renewal periods for all certifications under this chapter. [1991 c 3 § 284; 1988 c 277 § 10.]

**18.138.080 Advisory committee.** (1) There is created a state advisory committee consisting of five members appointed by the secretary who shall advise the secretary concerning the administration of this chapter. Two members of the committee shall be certified dietitians who have been engaged in the practice of dietetics for at least five years immediately preceding their appointments. Two members of the committee shall be certified nutritionists who have been engaged in the provision of general nutrition services for at least five years preceding their appointments. These committee members shall at all times be certified under this chapter, except for the initial members of the committee, who shall fulfill the requirements for certification under this chapter. The remaining member of the committee shall be a member of the public with an interest in the rights of consumers of health services, but who does not have any financial interest in the rendering of health services.

(2) The term of office for committee members is four years. The terms of the first committee members however, shall be staggered to ensure an orderly succession of new committee members thereafter. Terms of office shall expire on December 31. Any committee member may be removed for just cause. The secretary may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term. No committee member may serve more than two consecutive terms whether full or partial.

(3) Committee members shall be entitled to be compensated in accordance with RCW 43.03.240 and to be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(4) The committee shall have the authority to annually elect a chairperson and vice-chairperson to direct the meetings of the committee. The committee shall meet at least once each year, and may hold additional

meetings as called by the secretary or the chairperson. Three members of the committee shall constitute a quorum of the committee. [1991 c 3 § 285; 1988 c 277 § 8.]

**18.138.090 Application of uniform disciplinary act.** The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certificates, unauthorized practices, and the disciplining of certificate holders under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 286; 1988 c 277 § 5.]

### Chapter 18.150

#### HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM

##### Sections

18.150.010	Recodified as RCW 28B.115.010.
18.150.020	Recodified as RCW 28B.115.020.
18.150.030	Recodified as RCW 28B.115.030.
18.150.040	Recodified as RCW 28B.115.050.
18.150.050	Recodified as RCW 28B.115.090.
18.150.060	Recodified as RCW 28B.115.110.
18.150.070	Recodified as RCW 28B.115.140.
18.150.080	Repealed.
18.150.900	Recodified as RCW 28B.115.900.
18.150.910	Recodified as RCW 28B.115.901.

**18.150.010 Recodified as RCW 28B.115.010.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.020 Recodified as RCW 28B.115.020.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.030 Recodified as RCW 28B.115.030.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.040 Recodified as RCW 28B.115.050.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.050 Recodified as RCW 28B.115.090.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.060 Recodified as RCW 28B.115.110.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.070 Recodified as RCW 28B.115.140.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.900 Recodified as RCW 28B.115.900.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.150.910 Recodified as RCW 28B.115.901.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 18.155

#### SEX OFFENDER TREATMENT PROVIDERS

##### Sections

18.155.010	Findings—Construction.
18.155.020	Definitions.
18.155.030	Certificate required.
18.155.040	Secretary—Authority.
18.155.050	Sexual offender treatment providers advisory committee.
18.155.060	Immunity.
18.155.070	Certificate—Requirements.
18.155.080	Rules required.
18.155.090	Application of uniform disciplinary act.
18.155.900	Index, part headings not law—1990 c 3.
18.155.901	Severability—1990 c 3.
18.155.902	Effective dates—Application—1990 c 3.

**18.155.010 Findings—Construction.** The legislature finds that sex offender therapists who examine and treat sex offenders pursuant to the special sexual offender sentencing alternative under RCW 9.94A.120(7)(a) and who may treat juvenile sex offenders pursuant to RCW 13.40.160, play a vital role in protecting the public from sex offenders who remain in the community following conviction. The legislature finds that the qualifications, practices, techniques, and effectiveness of sex offender treatment providers vary widely and that the court's ability to effectively determine the appropriateness of granting the sentencing alternative and monitoring the offender to ensure continued protection of the community is undermined by a lack of regulated practices. The legislature recognizes the right of sex offender therapists to practice, consistent with the paramount requirements of public safety. Public safety is best served by regulating sex offender therapists whose clients are being evaluated and being treated pursuant to RCW 9.94A.120(7)(a) and 13.40.160. This chapter shall be construed to require only those sex offender therapists who examine and treat sex offenders pursuant to RCW 9.94A.120(7)(a) and 13.40.160 to obtain a sexual offender treatment certification as provided in this chapter. [1990 c 3 § 801.]

**18.155.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Certified sex offender treatment provider" means a licensed, certified, or registered health professional who is certified to examine and treat sex offenders pursuant to RCW 9.94A.120(7)(a) and 13.40.160.

(2) "Department" means the department of health.

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

(4) "Sex offender treatment provider" means a person who counsels or treats sex offenders accused of or convicted of a sex offense as defined by RCW 9.94A.030. [1990 c 3 § 802.]

**18.155.030 Certificate required.** (1) No person shall represent himself or herself as a certified sex offender treatment provider without first applying for and receiving a certificate pursuant to this chapter.

(2) Only a certified sex offender treatment provider may perform or provide the following services:

(a) Evaluations conducted for the purposes of and pursuant to RCW 9.94A.120(7)(a) and 13.40.160;

(b) Treatment of convicted sex offenders who are sentenced and ordered into treatment pursuant to RCW 9.94A.120(7)(a) and adjudicated juvenile sex offenders who are ordered into treatment pursuant to RCW 13.40.160. [1990 c 3 § 803.]

**18.155.040 Secretary—Authority.** In addition to any other authority provided by law, the secretary shall have the following authority:

(1) To set all fees required in this chapter in accordance with RCW 43.70.250;

(2) To establish forms necessary to administer this chapter;

(3) To issue a certificate to any applicant who has met the education, training, and examination requirements for certification and deny a certificate to applicants who do not meet the minimum qualifications for certification. Proceedings concerning the denial of certificates based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) To hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and to hire individuals including those certified under this chapter to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) To maintain the official department record of all applicants and certifications;

(6) To conduct a hearing on an appeal of a denial of a certificate on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted pursuant to chapter 34.05 RCW;

(7) To issue subpoenas, statements of charges, statements of intent to deny certificates, and orders and to delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements of intent to deny certificates;

(8) To determine the minimum education, work experience, and training requirements for certification, including but not limited to approval of educational programs;

(9) To prepare and administer or approve the preparation and administration of examinations for certification;

(10) To establish by rule the procedure for appeal of an examination failure;

(11) To adopt rules implementing a continuing competency program;

(12) To adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter. [1990 c 3 § 804.]

**18.155.050 Sexual offender treatment providers advisory committee.** (1) The sexual offender treatment providers advisory committee is established to advise the secretary concerning the administration of this chapter.

(2) The secretary shall appoint the members of the advisory committee who shall consist of the following persons:

- (a) One superior court judge;
- (b) Three sexual offender treatment providers;
- (c) One mental health practitioner who specializes in treating victims of sexual assault;
- (d) One defense attorney with experience in representing persons charged with sexual offenses;
- (e) One representative from the Washington association of prosecuting attorneys;
- (f) The secretary of the department of social and health services or his or her designee;
- (g) The secretary of the department of corrections or his or her designee.

The secretary shall develop and implement the certification procedures with the advice of the committee by July 1, 1991. Following implementation of these procedures by the secretary, the committee shall be a permanent body. The members shall serve staggered six-year terms, to be set by the secretary. No person other than the members representing the departments of social and health services and corrections may serve more than two consecutive terms.

The secretary may remove any member of the advisory committee for cause as specified by rule. In a case of a vacancy, the secretary shall appoint a person to serve for the remainder of the unexpired term.

(3) Committee members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The committee shall elect officers as deemed necessary to administer its duties. A simple majority of the committee members currently serving shall constitute a quorum of the committee.

(5) Members of the advisory committee shall be residents of this state. The members who are sex offender treatment providers must have a minimum of five years of extensive work experience in treating sex offenders to qualify for appointment to the initial committee, which shall develop and implement the certification program. After July 1, 1991, the sex offender treatment providers on the committee must be certified pursuant to this chapter.

(6) The committee shall meet at times as necessary to conduct committee business. [1990 c 3 § 805.]

**18.155.060 Immunity.** The secretary, members of the committee, and individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties. [1990 c 3 § 806.]

**18.155.070 Certificate—Requirements.** The department shall issue a certificate to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the secretary or successful completion of alternate training which meets the criteria of the secretary;

(2) Successful completion of any experience requirement established by the secretary;

(3) Successful completion of an examination administered or approved by the secretary;

(4) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment;

(5) Other requirements as may be established by the secretary that impact the competence of the sex offender treatment provider. [1990 c 3 § 807.]

**18.155.080 Rules required.** The secretary shall establish by rule standards and procedures for approval of the following:

- (1) Educational programs and alternate training;
- (2) Examination procedures;
- (3) Certifying applicants who have a comparable certification in another jurisdiction;
- (4) Application method and forms;
- (5) Requirements for renewals of certificates;
- (6) Requirements of certified sex offender treatment providers who seek inactive status;
- (7) Other rules as appropriate to carry out the purposes of this chapter. [1990 c 3 § 808.]

**18.155.090 Application of uniform disciplinary act.** The uniform disciplinary act, chapter 18.130 RCW, governs unauthorized practice, the issuance and denial of certificates, and the discipline of certified sex offender treatment providers under this chapter. [1990 c 3 § 809.]

**18.155.900 Index, part headings not law—1990 c 3.** The index and part headings used in \*this act do not constitute any part of the law. [1990 c 3 § 1404.]

**\*Reviser's note:** For codification of "this act" [1990 c 3], see Codification Tables, Supplement Volume 9A.

**18.155.901 Severability—1990 c 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 3 § 1405.]

**18.155.902 Effective dates—Application—1990 c 3.** (1) Sections 101 through 131, 401 through 409, 501 through 504, 606, 707 and 708, 801 through 810, 1101 through 1104, 1201 through 1210, and 1401 through 1403 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 28, 1990].

(2) Sections 201 through 203, 301 through 305, 701 through 706, and 901 through 904 shall take effect July 1, 1990, and shall apply to crimes committed on or after July 1, 1990.

(3) Sections 1001 through 1012 shall take effect July 1, 1990.

(4) Section 1301 shall take effect July 1, 1991.

(5) Sections 601 through 605, for purposes of sentencing adult or juvenile offenders shall take effect July 1, 1990, and shall apply to crimes or offenses committed on or after July 1, 1990. For purposes of defining a "sexually violent offense" pursuant to section 1002(4) of this act, sections 601 through 605 of this act shall take effect July 1, 1990, and shall apply to crimes committed on, before, or after July 1, 1990. [1990 c 3 § 1406.]

**Reviser's note:** For codification of 1990 c 3, see Codification Tables, Supplement Volume 9A.

**Chapter 18.160**

**FIRE SPRINKLER SYSTEM CONTRACTORS**

Sections

18.160.010	Definitions.
18.160.020	Local government license and permit requirements—Exemptions from chapter.
18.160.030	State director of fire protection—Duties.
18.160.040	Certificate of competency—Contractor license.
18.160.050	Renewal—Certificate of competency—Contractor license—Fire protection license fund created.
18.160.060	Repealed.
18.160.070	Local government regulation—Application to state and government contractors.
18.160.080	Refusal, suspension, or revocation of certificates or licenses—Grounds—Appeal.
18.160.090	Surety bond—Security deposit—Venue and time limit for actions upon bonds—Limit of liability of surety—Payment of claims.
18.160.900	Prospective application.
18.160.901	Effective date—1990 c 177.
18.160.902	Severability—1990 c 177.

**18.160.010 Definitions.** The following words or terms shall have the meanings indicated unless the context clearly indicates otherwise.

(1) "Certificate of competency holder" means an individual who has satisfactorily met the qualifications and has received a certificate of competency from the state director of fire protection under the provisions of this chapter.

(2) "Fire protection sprinkler system contractor" means a person or organization that offers to undertake the execution of contracts for the installation, inspection, maintenance, or servicing of a fire protection sprinkler system or any part of such a system.

(3) "Fire protection sprinkler system" means an assembly of underground and/or overhead piping or conduit beginning at the connection to the primary water supply, whether public or private, that conveys water with or without other agents to dispersal openings or devices to extinguish, control, or contain fire and to provide protection from exposure to fire or other products of combustion.

(4) "Fire protection sprinkler system contractor's license" means the license issued by the state director of fire protection to a fire protection sprinkler system contractor upon an application being approved, the fee being paid, and the satisfactory completion of the

requirements of this chapter. The license shall be issued in the name of the fire protection sprinkler system contractor with the name or names of the certificate of competency holder noted thereon.

(5) "NFPA 13-D" means whatever standard that is used by the national fire protection association for the installation of fire protection sprinkler systems in one or two-family residential dwellings or mobile homes.

(6) "NFPA 13-R" means whatever standard that is used by the national fire protection association for the installation of fire protection sprinkler systems in residential dwellings up to four stories in height.

(7) "Inspection" means a visual examination of a fire protection sprinkler system or portion of the system to verify that the system appears to be in operating condition and is free from physical damage and complies with the applicable statutes and regulations adopted by the state director of fire protection.

(8) "Installation" means the initial placement of fire protection sprinkler system equipment or the extension, modification, or alteration of equipment after the initial placement. Installation shall include the work from a street or main water access throughout the entire building.

(9) "Maintenance" means to maintain in the condition of repair that provides performance as originally planned.

(10) "Organization" means a corporation, partnership, firm, or other business association, governmental entity, or any other legal or commercial entity.

(11) "Person" means a natural person, including an owner, manager, partner, officer, employee, or occupant.

(12) "Service" means to repair or test. [1990 c 177 § 2.]

**18.160.020 Local government license and permit requirements—Exemptions from chapter.** (1) A municipality or county may not enact an order, ordinance, rule, or regulation requiring a fire protection sprinkler system contractor to obtain a fire sprinkler contractor license from the municipality or county. However, a municipality or county may require a fire protection sprinkler system contractor to obtain a permit and pay a fee for the installation of a fire protection sprinkler system and require the installation of such systems to conform with the building code or other construction requirements of the municipality or county, but may not impose financial responsibility requirements other than proof of a valid license.

(2) This chapter does not apply to:

(a) United States, state, and local government employees, building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities;

(b) A person or organization acting under court order;

(c) A person or organization that sells or supplies products or materials to a licensed fire protection sprinkler system contractor;

(d) A registered professional engineer acting solely in a professional capacity;

(e) An employee of a licensed fire protection sprinkler system contractor performing duties for the registered fire protection sprinkler system contractor; and

(f) An owner/occupier of a single-family residence performing his or her own installation in that residence. [1990 c 177 § 3.]

**18.160.030 State director of fire protection—Duties.** (1) This chapter shall be administered by the state director of fire protection.

(2) The state director of fire protection shall have the authority, and it shall be his or her duty to:

(a) Issue such administrative regulations as necessary for the administration of this chapter;

(b) Set reasonable fees for licenses, certificates, testing, and other aspects of the administration of this chapter. However, the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-D fire protection sprinkler systems shall not exceed one hundred dollars, and the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-R fire protection sprinkler systems shall not exceed three hundred dollars;

(c) Enforce the provisions of this chapter;

(d) Conduct investigations of complaints to determine if any infractions of this chapter or the regulations developed under this chapter have occurred;

(e) Work with the \*fire sprinkler advisory committee consisting of fire protection sprinkler system contractors and other related officials;

(f) Assign a certificate number to each certificate of competency holder; and

(g) Adopt rules necessary to implement and administer a program which requires the affixation of a seal any time a fire protection sprinkler system is installed, which seal shall include the certificate number of any certificate of competency holder who installs, in whole or in part, the fire protection sprinkler system. [1990 c 177 § 4.]

**\*Reviser's note:** The section creating the fire sprinkler advisory committee, 1990 c 177 § 9, was vetoed by the governor.

**18.160.040 Certificate of competency—Contractor license.** (1) To become a certificate of competency holder under this chapter, an applicant must have satisfactorily passed an examination administered by the state director of fire protection. A certificate of competency holder can satisfy this examination requirement by presenting a copy of a current certificate of competency from the national institute for certification in engineering technologies showing that the applicant has achieved the classification of engineering technician level 3 or senior engineering technician level 4 in the field of fire protection, automatic sprinkler system layout. The state director of fire protection may accept equivalent proof of qualification in lieu of examination, as recommended by the \*fire sprinkler advisory committee. This examination requirement is mandatory except as otherwise provided in this chapter.

(2) Every applicant for a certificate of competency shall fulfill the requirements established by the state director of fire protection and the \*fire protection sprinkler system technical advisory committee under chapter 34.05 RCW.

(3) Every applicant for a certificate of competency shall make application to the state director of fire protection and pay the fees required.

(4) Provided the application for the certificate of competency is made prior to ninety days after May 1, 1991, the state director of fire protection, in lieu of the examination requirements of the applicant for a certificate of competency, may accept as satisfactory evidence of competency and qualification, affidavits attesting that the applicant has had a minimum of three years' experience.

(5) The state director of fire protection may, after consultation with the \*fire sprinkler advisory committee, issue a temporary certificate of competency to an applicant who, in his or her judgment, will satisfactorily perform as a certificate of competency holder under the provisions of this chapter. The temporary certificate of competency shall remain in effect for a period of up to three years. The temporary certificate of competency holder shall, within the three-year period, complete the examination requirements specified in subsection (1) of this section. There shall be no examination exemption for an individual issued a temporary certificate of competency. Prior to the expiration of the three-year period, the temporary certificate of competency holder shall make application for a regular certificate of competency. The procedures and qualifications for issuance of a regular certificate of competency shall be applicable to the temporary certificate of competency holder. When a temporary certificate of competency expires, the holder shall cease all activities associated with the holding of a temporary certificate of competency, subject to the penalties contained in this chapter.

(6) To become a licensed fire protection sprinkler system contractor under this chapter, a person or firm must comply with the following:

(a) Must be or have in his or her full-time employ a holder of a valid certificate of competency;

(b) Comply with the minimum insurance requirements of this chapter; and

(c) Make application to the state director of fire protection for a license and pay the fees required.

(7) Each license and certificate of competency issued under this chapter must be posted in a conspicuous place in the fire protection sprinkler system contractor's place of business.

(8) All bids, advertisements, proposals, offers, and installation drawings for fire protection sprinkler systems must prominently display the fire protection sprinkler system contractor's license number.

(9) A certificate of competency or license issued under this chapter is not transferable.

(10) In no case shall a certificate of competency holder be employed full time by more than one fire protection sprinkler system contractor at the same time. If the certificate of competency holder should leave the

employment of the fire protection sprinkler system contractor, he or she must notify the state director of fire protection within thirty days. If the certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, the contractor shall have six months or until the expiration of the current license, whichever occurs last, to submit a new application identifying another certificate of competency holder who is at the time of application an owner of the fire protection sprinkler system business or a full-time employee of the fire protection sprinkler system contractor, in order to be issued a new license. If such application is not received and a new license issued within the allotted time, the state director of fire protection shall revoke the license of the fire protection sprinkler system contractor. [1990 c 177 § 5.]

**\*Reviser's note:** The section creating the fire sprinkler advisory committee, 1990 c 177 § 9, was vetoed by the governor.

**18.160.050 Renewal—Certificate of competency—Contractor license—Fire protection license fund created.** (1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. All receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1990 c 177 § 6.]

**18.160.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**18.160.070 Local government regulation—Application to state and government contractors.** (1) Nothing in this chapter limits the power of a municipality, county, or the state to regulate the quality and character of work performed by contractors, through a system of permits, fees, and inspections which are designed to assure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in this chapter limits the power of the municipality, county, or the state to adopt any system of permits requiring submission to and approval by the municipality, county, or the state, of technical drawings and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler system contractor is duly licensed by requiring evidence of a valid fire protection sprinkler system contractor's license.

(2) This chapter applies to any fire protection sprinkler system contractor performing work for any municipality, county, or the state. Officials of any municipality, county, or the state are required to determine compliance with this chapter before awarding any contracts for the installation, repair, service, alteration, fabrication, addition, or inspection of a fire protection sprinkler system. [1990 c 177 § 8.]

**18.160.080 Refusal, suspension, or revocation of certificates or licenses—Grounds—Appeal.** (1) The state director of fire protection may refuse to issue or

renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder to engage in the fire protection sprinkler system business or in lieu thereof, establish penalties as prescribed by Washington state law, for any of the following reasons:

- (a) Gross incompetency or gross negligence in the preparation of technical drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems;
- (b) Conviction of a felony;
- (c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business;
- (d) Use of false evidence or misrepresentation in an application for a license or certificate of competency;
- (e) Permitting his or her license to be used in connection with the preparation of any technical drawings which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of this chapter; or
- (f) Knowingly violating any provisions of this chapter or the regulations issued thereunder.

(2) The state director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder who engages in the fire protection sprinkler system business while the license or certificate of competency is suspended.

(3) Any licensee or certificate of competency holder who is aggrieved by an order of the state director of fire protection suspending or revoking a license may, within thirty days after notice of such suspension or revocation, appeal under chapter 34.05 RCW. [1990 c 177 § 10.]

**18.160.090 Surety bond—Security deposit—Venue and time limit for actions upon bonds—Limit of liability of surety—Payment of claims.** (1) Before granting a license under this chapter, the director of fire protection shall require that the applicant file with the state director of fire protection a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the director of fire protection running to the state of Washington in the penal sum of ten thousand dollars. However, the surety bond for a fire protection sprinkler system contractor whose business is restricted solely to NFPA 13-D or NFPA 13-R systems shall be in the penal sum of six thousand dollars. The bond shall be conditioned that the applicant will pay all purchasers of fire protection sprinkler systems with whom the applicant has a contract for the applicant to install, inspect, maintain, or service a fire protection sprinkler system, and who have obtained a judgment against the applicant for the breach of such a contract. The term "purchaser" means an owner of property who has entered into a contract for the installation of a fire protection sprinkler system on that property, or a contractor who contracts to install, inspect, maintain, or service such a system with an owner of property and subcontracts the work to the applicant. No other person, including, but not limited to, persons who

supply labor, materials, or rental equipment to the applicant, shall have any rights against the bond.

(2) In lieu of the surety bond required by this section the applicant may file with the director of fire protection a deposit consisting of cash or other security acceptable to the director of fire protection in an amount equal to the penal sum of the required bond. The director of fire protection may adopt rules necessary for the proper administration of the security.

(3) Before granting renewal of a fire protection sprinkler system contractor's license to any applicant, the director of fire protection shall require that the applicant file with the director satisfactory evidence that the surety bond or cash deposit is in full force.

(4) Any purchaser of a fire protection sprinkler system having a claim against the licensee for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system may bring suit upon such bond in superior court of the county in which the work was done or of any county in which jurisdiction of the licensee may be had. Any such action must be brought not later than one year after the expiration of the licensee's license or renewal license then in effect at the time of the alleged breach of contract.

(5) The bond shall be considered one continuous obligation, and the surety upon the bond shall not be liable in aggregate or cumulative amount exceeding ten thousand dollars, or six thousand dollars if the bond was issued to a licensee whose business is restricted solely to NFPA 13-D or NFPA 13-R systems, regardless of the number of years the bond is in effect, or whether it is reinstated, renewed, reissued, or otherwise continued, and regardless of the year in which any claim accrued. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplemental to any liability or other insurance required by law or by the contract.

(6) If the surety desires to make payment without awaiting court action against it, the amount of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond. Any payment shall be based on final judgments received by the surety.

(7) Claims against the bond shall be satisfied from the bond in the following order:

(a) Claims by a purchaser of a fire protection sprinkler system for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system;

(b) Any court costs, interest, and attorneys' fees the plaintiff may be entitled to recover by contract, statute, or court rule.

A condition precedent to the surety being liable to any claimant is a final judgment against the licensee, unless the surety desires to make payment without awaiting court action. In the event of a dispute regarding the apportionment of the bond proceeds among claimants, the surety may bring an action for interpleader against all claimants upon the bond.

(8) Any purchaser of a fire protection sprinkler system having an unsatisfied final judgment against the licensee for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system may execute upon the security held by the director of fire protection by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit. [1991 1st sp.s. c 6 § 1.]

**18.160.900 Prospective application.** This chapter applies prospectively only and not retroactively. A municipal or county order, ordinance, rule, or regulation that is in effect as of May 1, 1991, is not invalid because of the provisions of this chapter. This chapter does not prohibit municipalities or counties from adopting stricter guidelines that will assure the proper installation of fire sprinkler systems within their jurisdictions. [1990 c 177 § 12.]

**18.160.901 Effective date—1990 c 177.** RCW 18.160.010 through 18.160.080 shall take effect May 1, 1991. [1990 c 177 § 13.]

**18.160.902 Severability—1990 c 177.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 177 § 14.]

## Chapter 18.165 PRIVATE DETECTIVES

### Sections

18.165.010	Definitions.
18.165.020	Exemptions.
18.165.030	Private detective license—Requirements.
18.165.040	Armed private detective license—Requirements.
18.165.050	Private detective agency license—Requirements—Assignment or transfer.
18.165.060	Armed private detective license authority—Registration of firearms.
18.165.070	License applications—Investigations—Information to be provided to applicant's employer and local law enforcement officer.
18.165.080	Private detective license cards, armed private detective license cards, and private detective agency license certificates—Issuance and requirements.
18.165.090	Preassignment training and testing requirements—Exemption.
18.165.100	Private detective agency license—Surety bond or certificate of insurance required.
18.165.110	Regulatory provisions exclusive—Authority of the state and political subdivisions.
18.165.120	Out-of-state private detectives operating across state lines.
18.165.130	Private detective agencies required to provide information on private detectives and armed private detectives.

18.165.140	Out-of-state private detectives—Application—Fee—Temporary assignment.
18.165.150	Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.
18.165.160	Grounds for disciplinary action or denial, suspension, or revocation of license.
18.165.170	Authority of director.
18.165.180	Complaints—Investigation—Immunity.
18.165.190	Violations—Statement of charges—Hearings.
18.165.200	Application of administrative procedure act to hearings.
18.165.210	Inability to practice by reason of a mental or physical condition—Statement of charges—Hearing—Sanctions—Mental or physical examinations—Presumed consent for examination.
18.165.220	Unprofessional conduct or inability to practice—Penalties.
18.165.230	Enforcement of orders for payment of fines.
18.165.240	Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.
18.165.250	Violation of injunction—Penalty.
18.165.260	Immunity.
18.165.270	Application of administrative procedure act to acts of the director.
18.165.900	Severability—1991 c 328.

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

(1) "Armed private detective" means a private detective who has a current firearms certificate issued by the commission and is licensed as an armed private detective under this chapter.

(2) "Chief law enforcement officer" means the elected or appointed police administrator of a municipal, county, or state police or sheriff's department that has full law enforcement powers in its jurisdiction.

(3) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

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

(5) "Director" means the director of the department of licensing.

(6) "Employer" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent of any of the foregoing that employs or seeks to enter into an arrangement to employ any person as a private detective.

(7) "Firearms certificate" means a certificate issued by the commission.

(8) "Forensic scientist" or "accident reconstructionist" means a person engaged exclusively in collecting and analyzing physical evidence and data relating to an accident or other matter and compiling such evidence or data to render an opinion of likely cause, fault, or circumstance of the accident or matter.

(9) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(10) "Principal" of a private detective agency means the owner or manager appointed by a corporation.

(11) "Private detective" means a person who is licensed under this chapter and is employed by a private detective agency for the purpose of investigation, escort or body guard services, or property loss prevention activities.

(12) "Private detective agency" means a person or entity licensed under this chapter and engaged in the business of detecting, discovering, or revealing one or more of the following:

- (a) Crime, criminals, or related information;
- (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person or thing;
- (c) The location, disposition, or recovery of lost or stolen property;
- (d) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property;
- (e) Evidence to be used before a court, board, officer, or investigative committee;
- (f) Detecting the presence of electronic eavesdropping devices; or
- (g) The truth or falsity of a statement or representation.

(13) "Qualifying agent" means an officer or manager of a corporation who meets the requirements set forth in this chapter for obtaining a private detective agency license.

(14) "Sworn peace officer" means a person who is an employee of the federal government, the state, or a political subdivision, agency, or department branch of a municipality or other unit of local government, and has law enforcement powers. [1991 c 328 § 1.]

**18.165.020 Exemptions.** The requirements of this chapter do not apply to:

- (1) A person who is employed exclusively or regularly by one employer and performs investigations solely in connection with the affairs of that employer, if the employer is not a private detective agency;
- (2) An officer or employee of the United States or of this state or a political subdivision thereof, while engaged in the performance of the officer's official duties;
- (3) A person engaged exclusively in the business of obtaining and furnishing information about the financial rating of persons;
- (4) An attorney at law while performing the attorney's duties as an attorney;
- (5) A licensed collection agency or its employee, while acting within the scope of that person's employment and making an investigation incidental to the business of the agency;
- (6) Insurers, agents, and insurance brokers licensed by the state, while performing duties in connection with insurance transacted by them;
- (7) A bank subject to the jurisdiction of the Washington state banking commission or the comptroller of currency of the United States, or a savings and loan association subject to the jurisdiction of this state or the federal home loan bank board;
- (8) A licensed insurance adjuster performing the adjuster's duties within the scope of the adjuster's license;

(9) A secured creditor engaged in the repossession of the creditor's collateral, or a lessor engaged in the repossession of leased property in which it claims an interest;

(10) A person who is a forensic scientist, accident reconstructionist, or other person who performs similar functions and does not hold himself or herself out to be an investigator in any other capacity; or

(11) A person solely engaged in the business of securing information about persons or property from public records. [1991 c 328 § 2.]

**18.165.030 Private detective license—Requirements.** An applicant must meet the following minimum requirements to obtain a private detective license:

- (1) Be at least eighteen years of age;
- (2) Be a citizen or resident alien of the United States;
- (3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private detective and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions consistent with the restoration of employment rights act, chapter 9.96A RCW;
- (4) Be employed by or have an employment offer from a private detective agency or be licensed as a private detective agency;
- (5) Submit a set of fingerprints; and
- (6) Pay the required fee. [1991 c 328 § 3.]

**18.165.040 Armed private detective license—Requirements.** (1) An applicant must meet the following minimum requirements to obtain an armed private detective license:

- (a) Be licensed as a private detective;
  - (b) Be at least twenty-one years of age;
  - (c) Have a current firearms certificate issued by the commission; and
  - (d) Pay the fee established by the director.
- (2) The armed private detective license may take the form of an endorsement to the private detective license if deemed appropriate by the director. [1991 c 328 § 4.]

**18.165.050 Private detective agency license—Requirements—Assignment or transfer.** (1) In addition to meeting the minimum requirements to obtain a license as a private detective, an applicant, or, in the case of a partnership or limited partnership, each partner, or, in the case of a corporation, the qualifying agent must meet the following additional requirements to obtain a private detective agency license:

- (a) Pass an examination determined by the director to measure the person's knowledge and competence in the private detective agency business; or
- (b) Have had at least three years' experience in investigative work or its equivalent as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall

substantiate the experience by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from persons other than employers who, based on personal knowledge, can substantiate the employment.

(2) An agency license issued pursuant to this section may not be assigned or transferred without prior written approval of the director. [1991 c 328 § 5.]

**18.165.060 Armed private detective license authority—Registration of firearms.** (1) An armed private detective license grants authority to the holder, while in the performance of his or her duties, to carry a firearm with which the holder has met the proficiency requirements established by the commission.

(2) All firearms carried by armed private detectives in the performance of their duties must be owned by the employer and, if required by law, must be registered with the proper government agency. [1991 c 328 § 6.]

**18.165.070 License applications—Investigations—Information to be provided to applicant's employer and local law enforcement officer.** (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol.

(3) A summary of the information acquired under this section, to the extent that it is public information, shall be forwarded by the department to the applicant's employer and to the chief law enforcement officer of the county and city or town in which the applicant's employer is located, for the purpose of comment prior to the issuance of a permanent private detective license. [1991 c 328 § 7.]

**18.165.080 Private detective license cards, armed private detective license cards, and private detective agency license certificates—Issuance and requirements.** (1) The director shall issue a private detective license card to each licensed private detective and an armed private detective license card to each armed private detective.

(a) The license card may not be used as security clearance or as identification.

(b) A private detective shall carry the license card whenever he or she is performing the duties of a private detective and shall exhibit the card upon request.

(c) An armed private detective shall carry the license card whenever he or she is performing the duties of an armed private detective and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private detective agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1991 c 328 § 8.]

**18.165.090 Preassignment training and testing requirements—Exemption.** (1) The director shall adopt rules establishing preassignment training and testing requirements, which shall include a minimum of four hours of classes. The director may establish, by rule, continuing education requirements for private detectives.

(2) The director shall consult with the private detective industry and law enforcement before adopting or amending the preassignment training or continuing education requirements of this section.

(3) A private detective need not fulfill the preassignment training requirements of this chapter if he or she, within sixty days of July 28, 1991, provides proof to the director that he or she previously has met the training requirements of this chapter or has been employed as a private detective or armed private detective for at least eighteen consecutive months immediately prior to the date of application. [1991 c 328 § 9.]

**18.165.100 Private detective agency license—Surety bond or certificate of insurance required.** (1) No private detective agency license may be issued under the provisions of this chapter unless the applicant files with the director a surety bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the principal and its servants, officers, agents, and employees by reason of its wrongful or illegal acts in conducting business licensed under this chapter. The bond shall be made payable to the state of Washington, and anyone so injured by the principal or its servants, officers, agents, or employees shall have the right and shall be permitted to sue directly upon this obligation in his or her own name. This obligation shall be subject to successive suits for recovery until the face amount is completely exhausted.

(2) Every licensee must at all times maintain on file with the director the surety bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and

shall not reinstate the license until this requirement is met.

(3) In lieu of posting bond, a licensed private detective agency may file with the director a certificate of insurance as evidence that it has comprehensive general liability coverage of at least twenty-five thousand dollars for bodily or personal injury and twenty-five thousand dollars for property damage. [1991 c 328 § 10.]

**18.165.110 Regulatory provisions exclusive—Authority of the state and political subdivisions.** (1) The provisions of this chapter relating to the licensing for regulatory purposes of private detectives, armed private detectives, and private detective agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon private detective agencies if such fees or taxes are levied by the state on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes private detective agencies with respect to activities that are not regulated under this chapter. [1991 c 328 § 11.]

**18.165.120 Out-of-state private detectives operating across state lines.** Private detectives or armed private detectives whose duties require them to operate across state lines may operate in this state for up to thirty days per year, if they are properly registered and certified in another state with training and certification requirements that the director finds are at least equal to the requirements of this state. [1991 c 328 § 12.]

**18.165.130 Private detective agencies required to provide information on private detectives and armed private detectives.** (1) A private detective agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed private detective or armed private detective.

(2) A private detective agency shall notify the director within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the agency is located immediately upon receipt of information affecting a licensed private detective's or armed private detective's continuing eligibility to hold a license under the provisions of this chapter. [1991 c 328 § 13.]

**18.165.140 Out-of-state private detectives—Application—Fee—Temporary assignment.** (1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private detective license card or armed private detective license card

on a form prescribed by the director. Upon receipt of a processing fee to be determined by the director, the director shall issue the individual a private detective license card or armed private detective license card.

(2) A valid license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment for the same employer that employs the licensee in the state in which he or she is a permanent resident. [1991 c 328 § 14.]

**18.165.150 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.** (1) After June 30, 1992, any person who performs the functions and duties of a private detective in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private detective agency in this state without first obtaining a private detective agency license.

(3) After June 30, 1992, the owner or qualifying agent of a private detective agency is guilty of a gross misdemeanor if he or she employs any person to perform the duties of a private detective without the employee having in his or her possession a permanent private detective license issued by the department. This shall not preclude a private detective agency from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private detective in this state unless the person holds a valid armed private detective license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private detective agency to hire, contract with, or otherwise engage the services of an unlicensed armed private detective knowing that the private detective does not have a valid armed private detective license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1991 c 328 § 15.]

**18.165.160 Grounds for disciplinary action or denial, suspension, or revocation of license.** The following acts are prohibited and constitute grounds for disciplinary action or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Knowingly making a material misstatement or omission in the application for or renewal of a license or firearms certificate;

(3) Not meeting the qualifications set forth in RCW 18.165.030, 18.165.040, or 18.165.050;

(4) Failing to return immediately on demand a firearm issued by an employer;

(5) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private detective license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(6) Failing to return immediately on demand company identification, badges, or other items issued to the private detective by an employer;

(7) Making any statement that would reasonably cause another person to believe that the private detective is a sworn peace officer;

(8) Divulging confidential information obtained in the course of any investigation to which he or she was assigned;

(9) Acceptance of employment that is adverse to a client or former client and relates to a matter about which a licensee has obtained confidential information by reason of or in the course of the licensee's employment by the client;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(11) Advertising that is false, fraudulent, or misleading;

(12) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(13) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(14) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(15) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(16) Aiding or abetting an unlicensed person to practice if a license is required;

(17) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(18) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(19) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action; or

(20) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.165.050. [1991 c 328 § 16.]

**18.165.170 Authority of director.** The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;

(2) To issue subpoenas and administer oaths in connection with an investigation, hearing, or proceeding held under this chapter;

(3) To take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(4) To compel attendance of witnesses at hearings;

(5) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the director;

(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the director or the director's designee shall make the final decision in the hearing;

(8) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(9) To adopt standards of professional conduct or practice;

(10) In the event of a finding of unprofessional conduct by an applicant or license holder, to impose sanctions against a license applicant or license holder as provided by this chapter;

(11) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, and the assurance shall not be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(12) To designate individuals authorized to sign subpoenas and statements of charges;

(13) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and

(14) To compel attendance of witnesses at hearings. [1991 c 328 § 17.]

**18.165.180 Complaints—Investigation—Immunity.** A person, including but not limited to consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the director shall investigate to determine if there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1991 c 328 § 18.]

**18.165.190 Violations—Statement of charges—Hearings.** (1) If the director determines, upon investigation, that there is reason to believe a violation of this chapter has occurred, a statement of charges shall be prepared and served upon the license holder or applicant and notice of this action given to the owner or qualifying agent of the employing private detective agency. The statement of charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charges. The license holder or applicant must file a request for hearing with the department within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the director may enter an order pursuant to RCW 34.05.440.

(2) If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. [1991 c 328 § 19.]

**18.165.200 Application of administrative procedure act to hearings.** The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW,

the administrative procedure act, govern all hearings before the director. [1991 c 328 § 20.]

**18.165.210 Inability to practice by reason of a mental or physical condition—Statement of charges—Hearing—Sanctions—Mental or physical examinations—Presumed consent for examination.** (1) If the director believes a license holder or applicant may be unable to practice with reasonable skill and safety to the public by reason of any mental or physical condition, a statement of charges shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill or safety. If the director determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the director shall impose such sanctions as are deemed necessary to protect the public.

(2) In investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of a mental or physical condition, the department may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the director. The cost of the examinations ordered by the department shall be paid by the department. In addition to any examinations ordered by the department, the licensee may submit physical or mental examination reports from licensed or certified health professionals of the license holder's or applicant's choosing and expense. Failure of the license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or withholding of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the public.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination if directed in writing by the department and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the director on the ground that the testimony or reports constitute hearsay or privileged communications. [1991 c 328 § 21.]

**18.165.220 Unprofessional conduct or inability to practice—Penalties.** Upon a finding that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action; or
- (10) Refund of fees billed to and collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1991 c 328 § 22.]

**18.165.230 Enforcement of orders for payment of fines.** If an order for payment of a fine is made as a result of a hearing and timely payment is not made as directed in the final order, the director may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the director may have as to a licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review.

In an action for enforcement of an order of payment of a fine, the director's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment. [1991 c 328 § 23.]

**18.165.240 Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.** (1) The director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by this chapter. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.165.190. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order

is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders.

(2) The attorney general, a county prosecuting attorney, the director, or any person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by this chapter without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by this chapter, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the department. [1991 c 328 § 24.]

**18.165.250 Violation of injunction—Penalty.** A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be paid to the department. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. [1991 c 328 § 25.]

**18.165.260 Immunity.** The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter. [1991 c 328 § 26.]

**18.165.270 Application of administrative procedure act to acts of the director.** The director, in implementing and administering the provisions of this chapter, shall act in accordance with the administrative procedure act, chapter 34.05 RCW. [1991 c 328 § 27.]

**18.165.900 Severability—1991 c 328.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 328 § 29.]

## Chapter 18.170 SECURITY GUARDS

Sections	
18.170.010	Definitions.
18.170.020	Exemptions.

- 18.170.030 Security guard license—Requirements.  
 18.170.040 Armed private security guard license—Requirements.  
 18.170.050 Armed private security guard license authority—  
 Registration of firearms.  
 18.170.060 Private security company license—Requirements—  
 Qualifying agent—Assignment or transfer of  
 license.  
 18.170.070 Private security guard license cards, armed private secu-  
 rity guard license cards, and private security company  
 license certificates—Issuance and requirements.  
 18.170.080 Licensed private security companies—Certificate of  
 insurance required.  
 18.170.090 Temporary registration cards—Requirements—  
 Expiration.  
 18.170.100 Preassignment training and testing requirements—  
 Exemption.  
 18.170.110 Private security companies required to provide informa-  
 tion on private security guards and armed private secu-  
 rity guards.  
 18.170.120 Out-of-state private security guards—Applica-  
 tion—Fee—Temporary assignment.  
 18.170.130 License applications—Investigations—Information  
 to be provided to applicant's employer and local law  
 enforcement officer.  
 18.170.140 Regulatory provisions exclusive—Authority of the  
 state and political subdivisions.  
 18.170.150 Out-of-state private security guards operating across  
 state lines.  
 18.170.160 Licenses required—Use of public law enforcement in-  
 signia prohibited—Penalties—Enforcement.  
 18.170.170 Grounds for disciplinary action or denial, suspension, or  
 revocation of license.  
 18.170.180 Authority of director.  
 18.170.190 Complaints—Investigation—Immunity.  
 18.170.200 Violations—Statement of charges—Hearings.  
 18.170.210 Application of administrative procedures act to  
 hearings.  
 18.170.220 Inability to practice by reason of a mental or physical  
 condition—Statement of charges—Hearing—  
 Sanctions—Mental or physical examinations—  
 Presumed consent for examination.  
 18.170.230 Unprofessional conduct or inability to practice—  
 Penalties.  
 18.170.240 Enforcement of orders for payment of fines.  
 18.170.250 Unlicensed practice—Complaints—Director's au-  
 thority—Injunctions—Penalty.  
 18.170.260 Violation of injunction—Penalty.  
 18.170.270 Immunity.  
 18.170.280 Application of administrative procedures act to acts of  
 the director.  
 18.170.900 Severability—1991 c 334.

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

(1) "Armed private security guard" means a private security guard who has a current firearms certificate issued by the commission and is licensed as an armed private security guard under this chapter.

(2) "Armored vehicle guard" means a person who transports in an armored vehicle under armed guard, from one place to another place, valuables, jewelry, currency, documents, or any other item that requires secure delivery.

(3) "Burglar alarm response runner" means a person employed by a private security company to respond to burglar alarm system signals.

(4) "Burglar alarm system" means a device or an assembly of equipment and devices used to detect or signal unauthorized intrusion, movement, or exit at a protected

premises, other than in a vehicle, to which police or private security guards are expected to respond.

(5) "Chief law enforcement officer" means the elected or appointed police administrator of a municipal, county, or state police or sheriff's department that has full law enforcement powers in its jurisdiction.

(6) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

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

(8) "Director" means the director of the department of licensing.

(9) "Employer" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent of any of the foregoing that employs or seeks to enter into an arrangement to employ any person as a private security guard.

(10) "Firearms certificate" means the certificate issued by the commission.

(11) "Licensee" means a person granted a license required by this chapter.

(12) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(13) "Principal corporate officer" means the president, vice-president, treasurer, secretary, comptroller, or any other person who performs the same functions for the corporation as performed by these officers.

(14) "Private security company" means a person or entity licensed under this chapter and engaged in the business of providing the services of private security guards on a contractual basis.

(15) "Private security guard" means an individual who is licensed under this chapter and principally employed as or typically referred to as one of the following:

- (a) Security officer or guard;
- (b) Patrol or merchant patrol service officer or guard;
- (c) Armed escort or bodyguard;
- (d) Armored vehicle guard;
- (e) Burglar alarm response runner; or
- (f) Crowd control officer or guard.

(16) "Qualifying agent" means an officer or manager of a corporation who meets the requirements set forth in this chapter for obtaining a license to own or operate a private security company.

(17) "Sworn peace officer" means a person who is an employee of the federal government, the state, a political subdivision, agency, or department branch of a municipality, or other unit of local government, and has law enforcement powers. [1991 c 334 § 1.]

**18.170.020 Exemptions.** The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs the functions of a private security guard solely in connection with the affairs of that employer, if the employer is not a private security company;

(2) A sworn peace officer while engaged in the performance of the officer's official duties; or

(3) A sworn peace officer while employed by any person to engage in off-duty employment as a private security guard, but only if the employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place and the sworn peace officer does not employ, contract with, or broker for profit other persons to assist him or her in performing the duties related to his or her private employer. [1991 c 334 § 2.]

**18.170.030 Security guard license—Requirements.** An applicant must meet the following minimum requirements to obtain a private security guard license:

- (1) Be at least eighteen years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private security guard, and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions consistent with the restoration of employment rights act, chapter 9.96A RCW;
- (4) Be employed by or have an employment offer from a licensed private security company or be licensed as a private security company;
- (5) Satisfy the training requirements established by the director;
- (6) Submit a set of fingerprints; and
- (7) Pay the required fee. [1991 c 334 § 3.]

**18.170.040 Armed private security guard license—Requirements.** (1) An applicant must meet the following minimum requirements to obtain an armed private security guard license:

- (a) Be licensed as a private security guard;
  - (b) Be at least twenty-one years of age;
  - (c) Have a current firearms certificate issued by the commission; and
  - (d) Pay the fee established by the director.
- (2) An armed private security guard license may take the form of an endorsement to the security guard license if deemed appropriate by the director. [1991 c 334 § 4.]

**18.170.050 Armed private security guard license authority—Registration of firearms.** (1) An armed private security guard license grants authority to the holder, while in the performance of his or her duties, to carry a firearm with which the holder has met the proficiency requirements established by the commission.

(2) All firearms carried by armed private security guards in the performance of their duties must be owned or leased by the employer and, if required by law, must be registered with the proper government agency. [1991 c 334 § 5.]

**18.170.060 Private security company license—Requirements—Qualifying agent—Assignment or**

**transfer of license.** (1) In addition to meeting the minimum requirements to obtain a license as a private security guard, an applicant, or, in the case of a partnership, each partner, or, in the case of a corporation, the qualifying agent must meet the following requirements to obtain a license to own or operate a private security company:

- (a) Possess three years' experience as a manager, supervisor, or administrator in the private security business or a related field approved by the director, or be at least twenty-one years of age and pass an examination determined by the director to measure the person's knowledge and competence in the private security business;
  - (b) Meet the insurance requirements of this chapter; and
  - (c) Pay any additional fees established by the director.
- (2) If the qualifying agent upon whom the licensee relies to comply with subsection (1) of this section ceases to perform his or her duties on a regular basis, the licensee must promptly notify the director by certified or registered mail. Within sixty days of sending notification to the director, the licensee must obtain a substitute qualifying agent who meets the requirements of this section. The director may extend the period for obtaining a substitute qualifying agent.

(3) A company license issued pursuant to this section may not be assigned or transferred without prior written approval of the director. [1991 c 334 § 6.]

**18.170.070 Private security guard license cards, armed private security guard license cards, and private security company license certificates—Issuance and requirements.** (1) The director shall issue a private security guard license card to each licensed private security guard and an armed private security guard license card to each armed private security guard.

(a) The license card may not be used as security clearance or as identification.

(b) A private security guard shall carry the license card whenever he or she is performing the duties of a private security guard and shall exhibit the card upon request.

(c) An armed private security guard shall carry the license card whenever he or she is performing the duties of an armed private security guard and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private security company.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1991 c 334 § 7.]

**18.170.080 Licensed private security companies—Certificate of insurance required.** A licensed private security company shall file and maintain with the director a certificate of insurance as evidence that it has comprehensive general liability coverage of at least twenty-five thousand dollars for bodily or personal injury and twenty-five thousand dollars for property damage. [1991 c 334 § 8.]

**18.170.090 Temporary registration cards—Requirements—Expiration.** (1) A licensed private security company may issue an employee a temporary registration card of the type and form prescribed by the director, but only after the employee has completed preassignment training and submitted an application for a private security guard license to the department. The temporary registration card is valid for a maximum period of sixty days and does not authorize a person to carry firearms during the performance of his or her duties as a private security guard. The temporary registration card permits the applicant to perform the duties of a private security guard for the issuing licensee.

(2) Upon expiration of a temporary registration card or upon the receipt of a permanent registration card or notification from the department that a permanent license is being withheld from an applicant, the applicant shall surrender his or her temporary registration card to the licensee who shall immediately forward it to the director. [1991 c 334 § 9.]

**18.170.100 Preassignment training and testing requirements—Exemption.** (1) The director shall adopt rules establishing preassignment training and testing requirements, which shall include a minimum of four hours of classes. The director may establish, by rule, continuing education requirements for private security guards.

(2) The director shall consult with the private security industry and law enforcement before adopting or amending the preassignment training or continuing education requirements of this section.

(3) A private security guard or armed private security guard need not fulfill the preassignment training requirements of this chapter if he or she, within sixty days of July 28, 1991, provides proof to the director that he or she previously has met the training requirements of this chapter or has been employed as a private security guard or armed private security guard for at least eighteen consecutive months immediately prior to the date of application. [1991 c 334 § 10.]

**18.170.110 Private security companies required to provide information on private security guards and armed private security guards.** (1) A private security company shall notify the director within thirty days after the

death or termination of employment of any employee who is a licensed private security guard or armed private security guard.

(2) A private security company shall notify the department within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the private security guard or armed private security guard was last employed immediately upon receipt of information affecting his or her continuing eligibility to hold a license under the provisions of this chapter. [1991 c 334 § 11.]

**18.170.120 Out-of-state private security guards—Application—Fee—Temporary assignment.** (1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private security guard license card or armed private security guard license card on a form prescribed by the director. Upon receipt of a processing fee to be determined by the director, the director shall issue the individual a private security guard license card or armed private security guard license card.

(2) A valid private security guard license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment as a private security guard for the same employer that employs the licensee in the state in which he or she is a permanent resident. [1991 c 334 § 12.]

**18.170.130 License applications—Investigations—Information to be provided to applicant's employer and local law enforcement officer.** (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol.

(3) A summary of the information acquired under this section, to the extent that it is public information, shall be forwarded by the department to the applicant's employer and to the chief law enforcement officer of the county and city or town in which the applicant's employer is located, for the purpose of comment prior to the issuance of a permanent private security guard license. [1991 c 334 § 13.]

**18.170.140 Regulatory provisions exclusive—Authority of the state and political subdivisions.** (1) The provisions of this chapter relating to the licensing for regulatory purposes of private security guards, armed

private security guards, and private security companies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business license fee, business and occupation tax, or other tax upon private security companies if such fees or taxes are levied on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing or regulating private security companies with respect to activities performed or offered that are not of a security nature. [1991 c 334 § 14.]

**18.170.150 Out-of-state private security guards operating across state lines.** Private security guards or armed private security guards whose duties require them to operate across state lines may operate in this state if they are properly registered and certified in another state with training, insurance, and certification requirements that the director finds are at least equal to the requirements of this state. [1991 c 334 § 15.]

**18.170.160 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.** (1) After June 30, 1992, any person who performs the functions and duties of a private security guard in this state without being licensed in accordance with this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private security company in this state without first obtaining a private security company license.

(3) After June 30, 1992, the owner or qualifying agent of a private security company is guilty of a gross misdemeanor if he or she employs an unlicensed person to perform the duties of a private security guard without issuing the employee a valid temporary registration card if the employee does not have in his or her possession a permanent private security guard license issued by the department. This subsection does not preclude a private security company from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private security guard in this state unless the person holds a valid armed private security guard license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private security company to hire, contract with, or otherwise engage the services of an unlicensed armed

private security guard knowing that he or she does not have a valid armed private security guard license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1991 c 334 § 16.]

**18.170.170 Grounds for disciplinary action or denial, suspension, or revocation of license.** The following acts are prohibited and constitute grounds for disciplinary action or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Practicing fraud, deceit, or misrepresentation in any of the private security activities covered by this chapter;

(3) Knowingly making a material misstatement or omission in the application for a license or firearms certificate;

(4) Not meeting the qualifications set forth in RCW 18.170.030, 18.170.040, or 18.170.060;

(5) Failing to return immediately on demand a firearm issued by an employer;

(6) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private security guard license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(7) Failing to return immediately on demand any uniform, badge, or other item of equipment issued to the private security guard by an employer;

(8) Making any statement that would reasonably cause another person to believe that the private security guard is a sworn peace officer;

(9) Divulging confidential information that may compromise the security of any premises, or valuables shipment, or any activity of a client to which he or she was assigned;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea

of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(11) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(12) Advertising that is false, fraudulent, or misleading;

(13) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(14) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(15) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(16) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the disciplining authority;

(17) Aiding or abetting an unlicensed person to practice if a license is required;

(18) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(19) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(20) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against a client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(21) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.170.060. [1991 c 334 § 17.]

**18.170.180 Authority of director.** The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;

(2) To issue subpoenas and administer oaths in connection with an investigation, hearing, or proceeding held under this chapter;

(3) To take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(4) To compel attendance of witnesses at hearings;

(5) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the director;

(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the director or the director's designee shall make the final decision in the hearing;

(8) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(9) To adopt standards of professional conduct or practice;

(10) In the event of a finding of unprofessional conduct by an applicant or license holder, to impose sanctions against a license applicant or license holder as provided by this chapter;

(11) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, and the assurance shall not be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(12) To designate individuals authorized to sign subpoenas and statements of charges;

(13) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and

(14) To compel the attendance of witnesses at hearings. [1991 c 334 § 18.]

**18.170.190 Complaints—Investigation—Immunity.** A person, including but not limited to consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for this charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the director shall investigate to determine if there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1991 c 334 § 19.]

**18.170.200 Violations—Statement of charges—Hearings.** (1) If the director determines, upon investigation, that there is reason to believe a violation of this chapter has occurred, a statement of charges shall be prepared and served upon the license holder or applicant and notice of this action given to the owner or qualifying agent of the employing private security company. The statement of charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charges. The license holder or applicant must file a request for hearing with the department

within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the director may enter an order pursuant to RCW 34.05.440.

(2) If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. [1991 c 334 § 20.]

**18.170.210 Application of administrative procedures act to hearings.** The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the director. [1991 c 334 § 21.]

**18.170.220 Inability to practice by reason of a mental or physical condition—Statement of charges—Hearing—Sanctions—Mental or physical examinations—Presumed consent for examination.** (1) If the director believes a license holder or applicant may be unable to practice with reasonable skill and safety to the public by reason of a mental or physical condition, a statement of charges shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill or safety. If the director determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the director shall impose such sanctions as are deemed necessary to protect the public.

(2) In investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of a mental or physical condition, the department may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the director. The cost of the examinations ordered by the department shall be paid by the department. In addition to any examinations ordered by the department, the licensee may submit physical or mental examination reports from licensed or certified health professionals of the license holder's or applicant's choosing and expense. Failure of the license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or withholding of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals

be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the public.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination if directed in writing by the department and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the director on the ground that the testimony or reports constitute hearsay or privileged communications. [1991 c 334 § 22.]

**18.170.230 Unprofessional conduct or inability to practice—Penalties.** Upon a finding that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action; or
- (10) Refund of fees billed to and collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1991 c 334 § 23.]

**18.170.240 Enforcement of orders for payment of fines.** If an order for payment of a fine is made as a result of a hearing and timely payment is not made as directed in the final order, the director may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the director may have as to a licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review.

In an action for enforcement of an order of payment of a fine, the director's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment. [1991 c 334 § 24.]

**18.170.250 Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.** (1) The director shall investigate complaints concerning practice

by unlicensed persons of a profession or business for which a license is required by this chapter. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.170.190. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders.

(2) The attorney general, a county prosecuting attorney, the director, or any person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by this chapter without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by this chapter, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the department. [1991 c 334 § 25.]

**18.170.260 Violation of injunction—Penalty.** A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be paid to the department. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. [1991 c 334 § 26.]

**18.170.270 Immunity.** The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter. [1991 c 334 § 27.]

**18.170.280 Application of administrative procedures act to acts of the director.** The director, in implementing and administering the provisions of this chapter, shall

act in accordance with the administrative procedure act, chapter 34.05 RCW. [1991 c 334 § 28.]

**18.170.900 Severability—1991 c 334.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 334 § 30.]

## Chapter 18.175 ATHLETE AGENTS

### Sections

18.175.010	Findings.
18.175.020	Athlete agents and athlete agent firms—Certificate or registration required—Violations.
18.175.030	Definitions.
18.175.040	Exemptions.
18.175.050	Authority of director.
18.175.060	Disclosure statements.
18.175.070	Penalties.
18.175.080	Application of consumer protection act.

**18.175.010 Findings.** The legislature finds it necessary to regulate the practice of athlete agents and athlete agent firms to protect the public health, safety, and welfare. The public has a right to be kept informed about the role of athlete agents. The purpose of this chapter is to help ensure that public information is available and that the integrity of interscholastic athletics is preserved. [1991 c 236 § 1.]

**18.175.020 Athlete agents and athlete agent firms—Certificate or registration required—Violations.** (1) It is a violation of this chapter for a person to practice or represent himself or herself as an athlete agent or athlete agent firm without a certificate of registration as an athlete agent or athlete agent firm.

(2) It is a violation of this chapter for a person other than a registered athlete agent or an employee or representative of a professional sport team to directly or indirectly solicit an individual to enter into an agent contract or professional sport services contract or procure, offer, promise, or attempt to obtain employment for an individual with a professional sport team or as a professional athlete. [1991 c 236 § 2.]

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

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

(2) "Director" means the director of licensing.

(3) "Athlete agent" means an individual registered under this chapter.

(4) "Athlete agent firm" means a sole proprietorship, partnership, association, corporation, or other entity that employs one or more individuals to act as an athlete agent on behalf of the entity.

(5) "Agent contract" means a contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one or more professional sport teams for the

employment of the person by a professional sport team or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(6) "Institution of higher education" means a public or private college or university in this state.

(7) "Professional athlete" means a person who is under contract to a professional sports team and is no longer enrolled in an institution of higher education as an undergraduate student.

(8) "Professional sport services contract" means a contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sport team or as a professional athlete.

(9) "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program in this state. The term also includes an individual who has applied for enrollment to an institution of higher education. A person ceases to be a "student athlete" as soon as his or her collegiate eligibility in the sport in which he or she is under scholarship has expired. [1991 c 236 § 3.]

**18.175.040 Exemptions.** The registration provisions of this chapter do not apply to a person:

(1) Who is related to the student athlete by blood or marriage;

(2) Who represents or advises no more than one student athlete in any given year; or

(3) Who represents only professional athletes. [1991 c 236 § 4.]

**18.175.050 Authority of director.** In addition to any other authority provided by law, the director may:

(1) Adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter;

(2) Establish forms and procedures as necessary to administer this chapter;

(3) Register applicants;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and registrants; and

(6) Set all registration, renewal, and late renewal fees in accordance with RCW 43.24.086. [1991 c 236 § 5.]

**18.175.060 Disclosure statements.** (1) An athlete agent shall file with the department a disclosure statement which contains all of the following:

(a) The educational background, training, and experience of the athlete agent with respect to practice as an athlete agent;

(b) The business name and address of each athlete agent firm represented by the athlete agent;

(c) A record of all felony convictions, or misdemeanor convictions punishable by imprisonment, of the athlete agent and each owner, partner, officer, or shareholder of ten percent or more of the stock of the athlete agent firm represented by the athlete agent; and

(d) A record of any sanctions issued to or disciplinary actions taken against the athlete agent, the athlete agent firm, or any athlete, professional sport team, or institution of higher education as a result of the conduct of the athlete agent or the athlete agent firm.

(2) An athlete agent shall file an updated disclosure statement with the department within thirty days of a change in the information required under subsection (1) (b), (c), or (d) of this section.

(3) Before entering into negotiations for an agent contract, an athlete agent shall give to the prospective client a copy of the current disclosure statement on file with the department.

(4) The department shall make disclosure statements available to the public for inspection and copying. [1991 c 236 § 6.]

**18.175.070 Penalties.** (1) It is a gross misdemeanor punishable according to chapter 9A.20 RCW for an athlete agent, athlete agent firm, or any person exempt under RCW 18.175.040 to:

(a) Induce a student athlete to enter into an agent contract or professional sport services contract; or

(b) Enter into an agreement whereby the athletic agent offers anything of value to an employee of an institution of higher education in return for the referral of a student athlete by that employee.

(2) It is a class C felony punishable according to chapter 9A.20 RCW for an athlete agent, athlete agent firm, or any person exempt under RCW 18.175.040 to offer money or any valuable consideration to a student athlete to induce the student athlete to enter into a professional sports services contract. [1991 c 236 § 7.]

**18.175.080 Application of consumer protection act.** The regulation of athlete agents is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. Activities of athlete agents prohibited under this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW. [1991 c 236 § 8.]

## Title 19

### BUSINESS REGULATIONS— MISCELLANEOUS

#### Chapters

**19.02** Business license center act.

**19.16** Collection agencies.

**19.25** Reproduced sound recordings.

**19.26** Prerecorded recording or tape.

**19.27** State building code.

**19.27A** Energy-related building standards.

**19.31** Employment agencies.

**19.32** Food lockers.

**19.36** Contracts and credit agreements requiring writings.

- 19.60 Pawnbrokers and second-hand dealers.
- 19.86 Unfair business practices—Consumer protection.
- 19.94 Weights and measures—1969 act.
- 19.98 Farm implements, machinery, parts.
- 19.100 Franchise investment protection.
- 19.105 Camping resorts.
- 19.112 Motor fuel quality act.
- 19.114 Used automotive oil recycling.
- 19.116 Motor vehicle subleasing or transfer.
- 19.118 Motor vehicle warranties.
- 19.142 Health studio services.
- 19.162 Pay-per-call information delivery services.
- 19.166 International student exchange.
- 19.170 Promotional advertising of prizes.

### Chapter 19.02

#### BUSINESS LICENSE CENTER ACT

##### Sections

- 19.02.070 Issuance of licenses—Scope—Master application and fees—Action by regulatory agency, when—Agencies provided information.
- 19.02.075 Handling fees.
- 19.02.100 Master license—Issuance or renewal—Denied, when.
- 19.02.885 Performance audit.

**19.02.070 Issuance of licenses—Scope—Master application and fees—Action by regulatory agency, when—Agencies provided information.** (1) Any person requiring licenses which have been incorporated into the system shall submit a master application to the department requesting the issuance of the licenses. The master application form shall contain in consolidated form information necessary for the issuance of the licenses.

(2) The applicant shall include with the application the sum of all fees and deposits required for the requested individual license endorsements as well as the handling fee established under RCW 19.02.075.

(3) Irrespective of any authority delegated to the department of licensing to implement the provisions of this chapter, the authority for approving issuance and renewal of any requested license that requires a preclicensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the license shall remain with that agency. The business license center has the authority to issue those licenses for which proper fee payment and a completed application form have been received and for which no preclicensing or renewal approval action is required by the regulatory agency.

(4) Upon receipt of the application and proper fee payment for any license for which issuance is subject to regulatory agency action under subsection (3) of this section, the department shall immediately notify the regulatory agency with authority to approve issuance or renewal of the license requested by the applicant. Each regulatory agency shall advise the department within a reasonable time after receiving the notice: (a) That the agency approves the issuance of the requested license

and will advise the applicant of any specific conditions required for issuing the license; (b) that the agency denies the issuance of the license and gives the applicant reasons for the denial; or (c) that the application is pending.

(5) The department shall issue a master license endorsed for all the approved licenses to the applicant and advise the applicant of the status of other requested licenses. It is the responsibility of the applicant to contest the decision regarding conditions imposed or licenses denied through the normal process established by statute or by the agency with the authority for approving issuance of the license.

(6) Regulatory agencies shall be provided information from the master application for their licensing and regulatory functions. [1990 c 264 § 1; 1982 c 182 § 6; 1979 c 158 § 79; 1977 ex.s. c 319 § 7.]

**Effective date—1990 c 264:** "This act shall take effect July 1, 1990. The director of licensing may immediately take such steps as are necessary to ensure that sections 1 and 2 of this act are implemented on their effective date." [1990 c 264 § 5.] Sections 1 and 2 of this act are RCW 19.02.070 and 19.02.075, respectively.

**19.02.075 Handling fees.** The department shall collect a handling fee of twelve dollars on each original master license issued. The handling fees collected under this section shall be deposited in the general fund. [1990 c 264 § 2.]

**Effective date—1990 c 264:** See note following RCW 19.02.070.

**19.02.100 Master license—Issuance or renewal—Denied, when.** (1) The department shall not issue or renew a master license to any person if:

(a) The person does not have a valid tax registration, if required;

(b) The person is a corporation delinquent in fees or penalties owing to the secretary of state or is not validly registered under Title 23B RCW, chapter 18.100 RCW, Title 24 RCW, and any other statute now or hereafter adopted which gives corporate or business licensing responsibilities to the secretary of state; or

(c) The person has not submitted the sum of all fees and deposits required for the requested individual license endorsements, any outstanding master license delinquency fee, or other fees and penalties to be collected through the system.

(2) Nothing in this section shall prevent registration by the state of an employer for the purpose of paying an employee of that employer industrial insurance or unemployment insurance benefits. [1991 c 72 § 8; 1982 c 182 § 10.]

**19.02.885 Performance audit.** The legislative budget committee shall conduct a performance audit of the master licensing program and report to the senate economic development and labor committee and the house of representatives trade and economic development committee. At a minimum, this study should include an examination of the program cost and effectiveness. [1990 c 264 § 3.]

**Effective date—1990 c 264:** See note following RCW 19.02.070.

**Chapter 19.16**  
**COLLECTION AGENCIES**

Sections  
19.16.100 Definitions.

**19.16.100 Definitions.** Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

(2) "Collection agency" means and includes:

(a) Any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;

(b) Any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme intended or calculated to be used to collect claims even though the forms direct the debtor to make payment to the creditor and even though the forms may be or are actually used by the creditor himself in his own name;

(c) Any person who in attempting to collect or in collecting his own claim uses a fictitious name or any name other than his own which would indicate to the debtor that a third person is collecting or attempting to collect such claim.

(3) "Collection agency" does not mean and does not include:

(a) Any individual engaged in soliciting claims for collection, or collecting or attempting to collect claims on behalf of a licensee under this chapter, if said individual is an employee of the licensee;

(b) Any individual collecting or attempting to collect claims for not more than one employer, if all the collection efforts are carried on in the name of the employer and if the individual is an employee of the employer;

(c) Any person whose collection activities are carried on in his or its true name and are confined and are directly related to the operation of a business other than that of a collection agency, such as but not limited to trust companies, savings and loan associations, building and loan associations, abstract companies doing an escrow business, real estate brokers, public officers acting in their official capacities, persons acting under court order, lawyers, insurance companies, credit unions, loan or finance companies, mortgage banks, and banks; or

(d) Any person who on behalf of another person prepares or mails monthly or periodic statements of accounts due if all payments are made to that other person and no other collection efforts are made by the person preparing the statements of account.

(4) "Claim" means any obligation for the payment of money or thing of value arising out of any agreement or contract, express or implied.

(5) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

(6) "Director" means the director of licensing.

(7) "Client" or "customer" means any person authorizing or employing a collection agency to collect a claim.

(8) "Licensee" means any person licensed under this chapter.

(9) "Board" means the Washington state collection agency board.

(10) "Debtor" means any person owing or alleged to owe a claim. [1990 c 190 § 1; 1979 c 158 § 81; 1971 ex.s. c 253 § 1.]

**Chapter 19.25**  
**REPRODUCED SOUND RECORDINGS**

Sections	Definitions.
19.25.010	Reproduction of sound without consent of owner unlawful—Fine and penalty.
19.25.020	Use of recording of live performance without consent of owner unlawful—Fine and penalty.
19.25.030	Failure to disclose origin of certain recordings unlawful—Fine and penalty.
19.25.040	Contraband recordings—Disposition, forfeiture, penalty.
19.25.050	Chapter not applicable to broadcast by commercial or educational radio or television.
19.25.800	Chapter not applicable to certain nonrecorded broadcast use.
19.25.810	Chapter not applicable to defined public record.
19.25.820	Severability—1991 c 38.
19.25.901	

**19.25.010 Definitions.** As used in this chapter:

(1) "Owner" means a person who owns the sounds fixed in a master phonograph record, master disc, master tape, master film, or other recording on which sound is or can be recorded and from which the transferred recorded sounds are directly or indirectly derived.

(2) "Fixed" means embodied in a recording or other tangible medium of expression, by or under the authority of the author, so that the matter embodied is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

(3) "Live performance" means a recitation, rendering, or playing of a series of images; musical, spoken or other sounds; or combination of images and sounds.

(4) "Recording" means a tangible medium on which sounds, images, or both are recorded or otherwise stored, including an original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now existing or developed later on which sounds, images, or both are or can be recorded or otherwise stored or a copy or reproduction that duplicates in whole or in part the original.

(5) "Manufacturer" means the entity authorizing the duplication of the recording in question, but shall not include the manufacturer of the cartridge or casing itself. [1991 c 38 § 1; 1974 ex.s. c 100 § 1.]

**19.25.020 Reproduction of sound without consent of owner unlawful—Fine and penalty.** (1) A person commits an offense if the person:

(a) Knowingly reproduces for sale or causes to be transferred any recording with intent to sell it or cause it

to be sold or use it or cause it to be used for commercial advantage or private financial gain without the consent of the owner;

(b) Transports within this state, for commercial advantage or private financial gain, a recording with the knowledge that the sounds have been reproduced or transferred without the consent of the owner; or

(c) Advertises, offers for sale, sells, or rents, or causes the sale, resale, or rental of or possesses for one or more of these purposes any recording that the person knows has been reproduced or transferred without the consent of the owner.

(2) An offense under this section is a felony punishable by:

(a) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than ten years, or both if:

(i) The offense involves at least one thousand unauthorized recordings during a one hundred eighty-day period; or

(ii) The defendant has been previously convicted under this section;

(b) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than five years, or both, if the offense involves more than one hundred but less than one thousand unauthorized recordings during a one hundred eighty-day period.

(3) Any other offense under this section is a gross misdemeanor punishable by a fine of not more than twenty-five thousand dollars, imprisonment for not more than one year, or both.

(4) This section does not affect the rights and remedies of a party in private litigation.

(5) This section applies only to recordings that were initially fixed before February 15, 1972. [1991 c 38 § 2; 1974 ex.s. c 100 § 2.]

**19.25.030 Use of recording of live performance without consent of owner unlawful—Fine and penalty.** (1) A person commits an offense if the person:

(a) For commercial advantage or private financial gain advertises, offers for sale, sells, rents, transports, causes the sale, resale, rental, or transportation of or possesses for one or more of these purposes a recording of a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner; or

(b) With the intent to sell for commercial advantage or private financial gain records or fixes or causes to be recorded or fixed on a recording a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner.

(2) An offense under this section is a felony punishable by:

(a) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than ten years, or both, if:

(i) The offense involves at least one thousand unauthorized recordings embodying sound or at least one hundred unauthorized audiovisual recordings during a one hundred eighty-day period; or

(ii) The defendant has been previously convicted under this section; or

(b) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than five years, or both, if the offense involves more than one hundred but less than one thousand unauthorized recordings embodying sound or more than ten but less than one hundred unauthorized audiovisual recordings during a one hundred eighty-day period.

(3) Any other offense under this section is a gross misdemeanor punishable by a fine of not more than twenty-five thousand dollars, imprisonment for not more than one year, or both.

(4) In the absence of a written agreement or law to the contrary, the performer or performers of a live performance are presumed to own the rights to record or fix those sounds.

(5) For the purposes of this section, a person who is authorized to maintain custody and control over business records that reflect whether or not the owner of the live performance consented to having the live performance recorded or fixed is a competent witness in a proceeding regarding the issue of consent.

(6) This section does not affect the rights and remedies of a party in private litigation. [1991 c 38 § 3; 1974 ex.s. c 100 § 3.]

**19.25.040 Failure to disclose origin of certain recordings unlawful—Fine and penalty.** (1) A person is guilty of failure to disclose the origin of a recording when, for commercial advantage or private financial gain, the person knowingly advertises, or offers for sale, resale, or rent, or sells or resells, or rents, leases, or lends, or possesses for any of these purposes, any recording which does not contain the true name and address of the manufacturer in a prominent place on the cover, jacket, or label of the recording.

(2) An offense under this section is a felony punishable by:

(a) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than ten years, or both, if:

(i) The offense involves at least one hundred unauthorized recordings during a one hundred eighty-day period; or

(ii) The defendant has been previously convicted under this section;

(b) A fine of not more than two hundred fifty thousand dollars, imprisonment for not more than five years, or both, if the offense involves more than ten but less than one hundred unauthorized recordings during a one hundred eighty-day period.

(3) Any other offense under this section is a gross misdemeanor punishable by a fine of not more than twenty-five thousand dollars, imprisonment for not more than one year, or both.

(4) This section does not affect the rights and remedies of a party in private litigation. [1991 c 38 § 4; 1974 ex.s. c 100 § 4.]

**19.25.050 Contraband recordings—Disposition, forfeiture, penalty.** (1) All recordings which have been fixed, transferred, or possessed without the consent of the owner in violation of RCW 19.25.020 or 19.25.030, and any recording which does not contain the true name and address of the manufacturer in violation of RCW 19.25.040 shall be deemed to be contraband. The court shall order the seizure, forfeiture, and destruction or other disposition of such contraband.

(2) The owner or the prosecuting attorney may institute proceedings to forfeit contraband recordings. The provisions of this subsection shall apply to any contraband recording, regardless of lack of knowledge or intent on the part of the possessor, retail seller, manufacturer, or distributor.

(3) Whenever a person is convicted of a violation under this chapter, the court, in its judgment of conviction, shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all contraband recordings and any and all electronic, mechanical, or other devices for manufacturing, reproducing, packaging, or assembling such recordings, which were used to facilitate any violation of this chapter. [1991 c 38 § 5.]

**19.25.800 Chapter not applicable to broadcast by commercial or educational radio or television.** This chapter shall not be applicable to any recording that is used or intended to be used only for broadcast by commercial or educational radio or television stations. [1991 c 38 § 6.]

**19.25.810 Chapter not applicable to certain nonrecorded broadcast use.** This chapter shall not be applicable to any recording that is received in the ordinary course of a broadcast by a commercial or educational radio or television station where no recording is made of the broadcast. [1991 c 38 § 7.]

**19.25.820 Chapter not applicable to defined public record.** This chapter shall not be applicable to any recording defined as a public record of any court, legislative body, or proceedings of any public body, whether or not a fee is charged or collected for copies. [1991 c 38 § 8.]

**19.25.901 Severability—1991 c 38.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 38 § 9.]

## Chapter 19.26

### PRERECORDED RECORDING OR TAPE

Sections	
19.26.010	Repealed.
19.26.020	Repealed.

**19.26.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.26.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 19.27

### STATE BUILDING CODE

Sections	
19.27.040	Cities and counties authorized to amend state building code—Limitations.
19.27.042	Cities and counties—Emergency exemptions for housing for indigent persons.
19.27.080	Chapters of RCW not affected.
19.27.095	Building permit application—Consideration—Requirements. (Effective April 1, 1992.)
19.27.097	Building permit application—Evidence of adequate water supply—Applicability—Exemption.
19.27.113	Fire extinguishers for certain school buildings.
19.27.160	Counties with populations of from five thousand to less than ten thousand—Ordinance reenactment.
19.27.170	Water conservation performance standards—Testing and identifying fixtures that meet standards—Marking and labeling fixtures.
19.27.175	Recycled materials—Study code and adopt changes.
19.27.190	Indoor air quality—Interim and final requirements for maintenance.
19.27.470	Recyclable materials and solid waste—Multifamily residences.
19.27.480	Recyclable materials and solid waste—Commercial facilities.

**19.27.040 Cities and counties authorized to amend state building code—Limitations.** The governing body of each county or city is authorized to amend the state building code as it applies within the jurisdiction of the county or city. The minimum performance standards of the codes and the objectives enumerated in RCW 19.27.020 shall not be diminished by any county or city amendments.

Nothing in this chapter shall authorize any modifications of the requirements of chapter 70.92 RCW. [1990 c 2 § 11; 1985 c 360 § 8; 1977 ex.s. c 14 § 12; 1974 ex.s. c 96 § 4.]

**Effective dates—1990 c 2:** "Sections 1 through 4, 6, 7, 9, and 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 1, 1990. Sections 11 and 12 of this act shall take effect January 1, 1991. Section 8 of this act shall take effect July 1, 1991." [1990 c 2 § 14.] For codification of this act [1990 c 2], see Codification Tables, Supplement Volume 9A.

**Findings—Severability—1990 c 2:** See notes following RCW 19.27A.015.

**19.27.042 Cities and counties—Emergency exemptions for housing for indigent persons.** (1) Effective January 1, 1992, the legislative authorities of cities and counties may adopt an ordinance or resolution to exempt from state building code requirements buildings whose character of use or occupancy has been changed in order to provide housing for indigent persons. The ordinance

or resolution allowing the exemption shall include the following conditions:

(a) The exemption is limited to existing buildings located in this state;

(b) Any code deficiencies to be exempted pose no threat to human life, health, or safety;

(c) The building or buildings exempted under this section are owned or administered by a public agency or nonprofit corporation; and

(d) The exemption is authorized for no more than five years on any given building. An exemption for a building may be renewed if the requirements of this section are met for each renewal.

(2) By January 1, 1992, the state building code council shall adopt by rule, guidelines for cities and counties exempting buildings under subsection (1) of this section. [1991 c 139 § 1.]

**19.27.080 Chapters of RCW not affected.** Nothing in this chapter affects the provisions of chapters 19.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, 28A.305, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, 76.04, 90.76 RCW, or RCW 28A.195.010, or grants rights to duplicate the authorities provided under chapters 70.94 or 76.04 RCW. [1990 c 33 § 555; 1989 c 346 § 19; 1975 1st ex.s. c 282 § 1; 1974 ex.s. c 96 § 8.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Captions—Severability—Effective date—Expiration date—1989 c 346:** See RCW 90.76.900 through 90.76.903.

**19.27.095 Building permit application—Consideration—Requirements.** (Effective April 1, 1992.) (1) A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application.

(2) The requirements for a fully completed application shall be defined by local ordinance but for any construction project costing more than five thousand dollars the application shall include, at a minimum:

(a) The legal description, or the tax parcel number assigned pursuant to RCW 84.40.160, and the street address if available, and may include any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number; and

(d) Either:

(i) The name, address, and phone number of the office of the lender administering the interim construction financing, if any; or

(ii) The name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner, if the bond is for an

amount not less than fifty percent of the total amount of the construction project.

(3) The information required on the building permit application by subsection (2) (a) through (d) of this section shall be set forth on the building permit document which is issued to the owner, and on the inspection record card which shall be posted at the construction site.

(4) The information required by subsection (2) of this section and information supplied by the applicant after the permit is issued under subsection (5) of this section shall be kept on record in the office where building permits are issued and made available to any person on request. If a copy is requested, a reasonable charge may be made.

(5) If any of the information required by subsection (2)(d) of this section is not available at the time the application is submitted, the applicant shall so state and the application shall be processed forthwith and the permit issued as if the information had been supplied, and the lack of the information shall not cause the application to be deemed incomplete for the purposes of vesting under subsection (1) of this section. However, the applicant shall provide the remaining information as soon as the applicant can reasonably obtain such information.

(6) The limitations imposed by this section shall not restrict conditions imposed under chapter 43.21C RCW. [1991 c 281 § 27; 1987 c 104 § 1.]

**Liberal construction—Effective date, application—1991 c 281:** See RCW 60.04.900 and 60.04.902.

**19.27.097 Building permit application—Evidence of adequate water supply—Applicability—Exemption.** (1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of community development to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties. [1991 1st sp.s. c 32 § 28; 1990 1st ex.s. c 17 § 63.]

**Section headings not law—1991 1st sp.s. c 32:** See RCW 36.70A.902.

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**19.27.113 Fire extinguishers for certain school buildings.** The building code council shall adopt rules by December 1, 1991, requiring that all buildings classed as E-1 occupancies, as defined in the state building code, except portable school classrooms, constructed after July 28, 1991, be provided with an automatic fire-extinguishing system. Rules adopted by the council shall consider applicable nationally recognized fire and building code standards and local conditions.

By December 15, 1991, the council shall transmit to the superintendent of public instruction, the state board of education, and the fire protection policy board copies of the rules as adopted. The superintendent of public instruction, the state board of education, and the fire protection policy board shall respond to the council by February 15, 1992, with any recommended changes to the rule. If changes are recommended the council shall immediately consider those changes to the rules through its rule-making procedures. The rules shall be effective on July 1, 1992. [1991 c 170 § 1.]

*Schools—Standards for fire prevention and safety: RCW 48.48.045.*

**19.27.160 Counties with populations of from five thousand to less than ten thousand—Ordinance reenactment.** Any county with a population of from five thousand to less than ten thousand that had in effect on July 1, 1985, an ordinance or resolution authorizing and regulating the construction of owner-built residences may reenact such an ordinance or resolution if the ordinance or resolution is reenacted before September 30, 1989. After reenactment, the county shall transmit a copy of the ordinance or resolution to the state building code council. [1991 c 363 § 16; 1989 c 246 § 7.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**19.27.170 Water conservation performance standards—Testing and identifying fixtures that meet standards—Marking and labeling fixtures.** (1) The state building code council shall adopt rules under chapter 34.05 RCW that implement and incorporate the water conservation performance standards in subsections (4) and (5) of this section. These standards shall apply to all new construction and all remodeling involving replacement of plumbing fixtures in all residential, hotel, motel, school, industrial, commercial use, or other occupancies determined by the council to use significant quantities of water.

(2) The legislature recognizes that a phasing-in approach to these new standards is appropriate. Therefore, standards in subsection (4) of this section shall take effect on July 1, 1990. The standards in subsection (5) of this section shall take effect July 1, 1993.

(3) No individual, public or private corporation, firm, political subdivision, government agency, or other legal entity may, for purposes of use in this state, distribute, sell, offer for sale, import, install, or approve for installation any plumbing fixtures unless the fixtures meet the standards as provided for in this section.

(4) Standards for water use efficiency effective July 1, 1990.

(a) Standards for waterclosets. The guideline for maximum water use allowed in gallons per flush (gpf) for any of the following waterclosets is the following:

- Tank-type toilets . . . . . 3.5 gpf.
- Flushometer-valve toilets . . . . . 3.5 gpf.
- Flushometer-tank toilets . . . . . 3.5 gpf.
- Electromechanical hydraulic toilets . . . . . 3.5 gpf.

(b) Standard for urinals. The guideline for maximum water use allowed for any urinal is 3.0 gallons per flush.

(c) Standard for showerheads. The guideline for maximum water use allowed for any showerhead is 3.0 gallons per minute.

(d) Standard for faucets. The guideline for maximum water use allowed in gallons per minute (gpm) for any of the following faucets and replacement aerators is the following:

- Bathroom faucets . . . . . 3.0 gpm.
- Lavatory faucets . . . . . 3.0 gpm.
- Kitchen faucets . . . . . 3.0 gpm.
- Replacement aerators . . . . . 3.0 gpm.

(e) Except where designed and installed for use by the physically handicapped, lavatory faucets located in restrooms intended for use by the general public must be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

(f) No urinal or watercloset that operates on a continuous flow or continuous flush basis shall be permitted.

(5) Standards for water use efficiency effective July 1, 1993.

(a) Standards for waterclosets. The guideline for maximum water use allowed in gallons per flush (gpf) for any of the following waterclosets is the following:

- Tank-type toilets . . . . . 1.6 gpf.
- Flushometer-tank toilets . . . . . 1.6 gpf.
- Electromechanical hydraulic toilets . . . . . 1.6 gpf.

(b) Standards for urinals. The guideline for maximum water use allowed for any urinal is 1.0 gallons per flush.

(c) Standards for showerheads. The guideline for maximum water use allowed for any showerhead is 2.5 gallons per minute.

(d) Standards for faucets. The guideline for maximum water use allowed in gallons per minute for any of the following faucets and replacement aerators is the following:

- Bathroom faucets . . . . . 2.5 gpm.
- Lavatory faucets . . . . . 2.5 gpm.
- Kitchen faucets . . . . . 2.5 gpm.

Replacement aerators . . . . . 2.5 gpm.

(e) Except where designed and installed for use by the physically handicapped, lavatory faucets located in restrooms intended for use by the general public must be equipped with a metering valve designed to close by water pressure when unattended (self-closing).

(f) No urinal or watercloset that operates on a continuous flow or continuous basis shall be permitted.

(6) The building code council shall establish methods and procedures for testing and identifying fixtures that meet the standards established in subsection (5) of this section. The council shall use the testing standards designated as American national standards, written under American national standards institute procedures or other widely recognized national testing standards. The council shall either review test results from independent testing laboratories that are submitted by manufacturers of plumbing fixtures or accept data submitted to and evaluated by the international association of plumbing and mechanical officials. The council shall publish and widely distribute a current list of fixtures that meet the standards established in subsection (5) of this section.

(7) The building code council shall adopt rules for marking and labeling fixtures meeting the standards established in subsection (5) of this section.

(8) This section shall not apply to fixtures installed before July 28, 1991, that are removed and relocated to another room or area of the same building after July 28, 1991, nor shall it apply to fixtures, as determined by the council, that in order to perform a specialized function, cannot meet the standards specified in this section.

(9) The water conservation performance standards shall supersede all local government codes. After July 1, 1990, cities, towns, and counties shall not amend the code revisions and standards established under subsection (4) or (5) of this section. [1991 c 347 § 16; 1989 c 348 § 8.]

**Purposes**—1991 c 347: See note following RCW 90.42.005.

**Severability**—1991 c 347: See RCW 90.42.900.

**Severability**—1989 c 348: See note following RCW 90.54.020.

**Rights not impaired**—1989 c 348: See RCW 90.54.920.

**19.27.175 Recycled materials—Study code and adopt changes.** The state building code council, in consultation with the department of ecology and local governments, shall conduct a study of the state building code, and adopt changes as necessary to encourage greater use of recycled building materials from construction and building demolition debris, mixed waste paper, waste paint, waste plastics, and other waste materials. [1991 c 297 § 15.]

**Captions not law**—1991 c 297: See RCW 43.19A.900.

**19.27.190 Indoor air quality—Interim and final requirements for maintenance.** (1)(a) Not later than January 1, 1991, the state building code council, in consultation with the state energy office, shall establish interim requirements for the maintenance of indoor air quality in newly constructed residential buildings. In establishing the interim requirements, the council shall

take into consideration differences in heating fuels and heating system types. These requirements shall be in effect July 1, 1991, through June 30, 1993.

(b) The interim requirements for new electrically space heated residential buildings shall include ventilation standards which provide for mechanical ventilation in areas of the residence where water vapor or cooking odors are produced. The ventilation shall be exhausted to the outside of the structure. The ventilation standards shall further provide for the capacity to supply outside air to each bedroom and the main living area through dedicated supply air inlet locations in walls, or in an equivalent manner. At least one exhaust fan in the home shall be controlled by a dehumidistat or clock timer to ensure that sufficient whole house ventilation is regularly provided as needed.

(c)(i) For new single family residences with electric space heating systems, zero lot line homes, each unit in a duplex, and each attached housing unit in a planned unit development, the ventilation standards shall include fifty cubic feet per minute of effective installed ventilation capacity in each bathroom and one hundred cubic feet per minute of effective installed ventilation capacity in each kitchen.

(ii) For other new residential units with electric space heating systems the ventilation standards may be satisfied by the installation of two exhaust fans with a combined effective installed ventilation capacity of two hundred cubic feet per minute.

(iii) Effective installed ventilation capacity means the capability to deliver the specified ventilation rates for the actual design of the ventilation system. Natural ventilation and infiltration shall not be considered acceptable substitutes for mechanical ventilation.

(d) For new residential buildings that are space heated with other than electric space heating systems, the interim standards shall be designed to result in indoor air quality equivalent to that achieved with the interim ventilation standards for electric space heated homes.

(e) The interim requirements for all newly constructed residential buildings shall include standards for indoor air quality pollutant source control, including the following requirements: All structural panel components of the residence shall comply with appropriate standards for the emission of formaldehyde; the back-drafting of combustion by-products from combustion appliances shall be minimized through the use of dampers, vents, outside combustion air sources, or other appropriate technologies; and, in areas of the state where monitored data indicate action is necessary to inhibit indoor radon gas concentrations from exceeding appropriate health standards, entry of radon gas into homes shall be minimized through appropriate foundation construction measures.

(2) No later than January 1, 1993, the state building code council, in consultation with the state energy office, shall establish final requirements for the maintenance of indoor air quality in newly constructed residences to be in effect beginning July 1, 1993. For new electrically space heated residential buildings, these requirements

shall maintain indoor air quality equivalent to that provided by the mechanical ventilation and indoor air pollutant source control requirements included in the February 7, 1989, Bonneville power administration record of decision for the environmental impact statement on new energy efficient homes programs (DOE/EIS-0127F) built with electric space heating. In residential units other than single family, zero lot line, duplexes, and attached housing units in planned unit developments, ventilation requirements may be satisfied by the installation of two exhaust fans with a combined effective installed ventilation capacity of two hundred cubic feet per minute. For new residential buildings that are space heated with other than electric space heating systems, the standards shall be designed to result in indoor air quality equivalent to that achieved with the ventilation and source control standards for electric space heated homes. In establishing the final requirements, the council shall take into consideration differences in heating fuels and heating system types. [1990 c 2 § 7.]

**Effective dates**—1990 c 2: See note following RCW 19.27.040.

**Findings**—**Severability**—1990 c 2: See notes following RCW 19.27A.015.

**19.27.470 Recyclable materials and solid waste—Multifamily residences.** By July 1, 1992, the state building code council shall adopt rules to ensure that new multifamily residences have adequate and conveniently located space to store and dispose of recyclable materials and solid waste. [1991 c 298 § 5.]

**Finding**—1991 c 298: See note following RCW 70.95.030.

**19.27.480 Recyclable materials and solid waste—Commercial facilities.** By July 1, 1992, the state building code council shall adopt rules to ensure that new commercial facilities have adequate and conveniently located space to store and dispose of recyclable materials and solid waste. [1991 c 298 § 6.]

**Finding**—1991 c 298: See note following RCW 70.95.030.

## Chapter 19.27A

### ENERGY-RELATED BUILDING STANDARDS

#### Sections

19.27A.010	Repealed.
19.27A.015	State energy code—Minimum and maximum energy code.
19.27A.020	State energy code—Adoption by state building code council—Standards—Preemption of local residential energy codes—Study of enforcement of energy codes—Purchase of energy under the Pacific Northwest electric power planning and conservation act—Expiration of subsection.
19.27A.025	Nonresidential buildings—Minimum standards—Amendments.
19.27A.030	Repealed.
19.27A.035	Payments by electric utilities to owners of residential buildings—Recovery of expenses—Effect of Pacific Northwest electric power planning and conservation act—Expiration of subsections.
19.27A.040	Repealed.
19.27A.045	Maintaining energy code for residential structures.

19.27A.055 Energy code training account.

**19.27A.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.27A.015 State energy code—Minimum and maximum energy code.** Except as provided in RCW 19.27A.020(7), the Washington state energy code for residential buildings shall be the maximum and minimum energy code for residential buildings in each city, town, and county and shall be enforced by each city, town, and county no later than July 1, 1991. The Washington state energy code for nonresidential buildings shall be the minimum energy code for nonresidential buildings enforced by each city, town, and county. [1990 c 2 § 2.]

**Findings**—1990 c 2: "The legislature finds that using energy efficiently in housing is one of the lowest cost ways to meet consumer demand for energy; that using energy efficiently helps protect citizens of the state from negative impacts due to changes in energy supply and cost; that using energy efficiently will help mitigate negative environmental impacts of energy use and resource development; and that using energy efficiently will help stretch our present energy resources into the future. The legislature further finds that the electricity surplus in the Northwest is dwindling as the population increases and the economy expands, and that the region will eventually need new sources of electricity generation.

It is declared policy of the state of Washington that energy be used efficiently. It is the intent of this act to establish residential building standards that bring about the common use of energy efficient building methods, and to assure that such methods remain economically feasible and affordable to purchasers of newly constructed housing." [1990 c 2 § 1.] For codification of "this act" [1990 c 2], see Codification Tables, Supplement Volume 9A.

**Severability**—1990 c 2: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 2 § 13.]

**Effective dates**—1990 c 2: See note following RCW 19.27.040.

**19.27A.020 State energy code—Adoption by state building code council—Standards—Preemption of local residential energy codes—Study of enforcement of energy codes—Purchase of energy under the Pacific Northwest electric power planning and conservation act—Expiration of subsection.** (1) No later than January 1, 1991, the state building code council shall promulgate rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to promulgate rules to be known as the Washington state energy code. The Washington state energy code shall be designed to require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework. The Washington state energy code shall be designed to allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas,

Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall require:

(a) New residential buildings that are space heated with electric resistance heating systems to achieve energy use equivalent to that used in typical buildings constructed with:

(i) Ceilings insulated to a level of R-38. The code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 (R value includes insulation only);

(ii) In zone 1, walls insulated to a level of R-19 (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components; in zone 2 walls insulated to a level of R-24 (R value includes insulation only), or constructed with two by six members, R-22 insulation batts, R-3.2 insulated sheathing, and other normal construction assembly components; for the purpose of determining equivalent thermal performance, the wall U-value shall be 0.058 in zone 1 and 0.044 in zone 2;

(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);

(iv) Floors over unheated spaces insulated to a level of R-30 (R value includes insulation only);

(v) Slab on grade floors insulated to a level of R-10 at the perimeter;

(vi) Double glazed windows with values not more than U-0.4;

(vii) In zone 1 the glazing area may be up to twenty-one percent of floor area and in zone 2 the glazing area may be up to seventeen percent of floor area where consideration of the thermal resistance values for other building components and solar heat gains through the glazing result in thermal performance equivalent to that achieved with thermal resistance values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection and glazing area equal to fifteen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area; and

(viii) Exterior doors insulated to a level of R-5; or an exterior wood door with a thermal resistance value of less than R-5 and values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection.

(b) New residential buildings which are space-heated with all other forms of space heating to achieve energy use equivalent to that used in typical buildings constructed with:

(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in zone 2 the code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 (R value includes insulation only);

(ii) Walls insulated to a level of R-19 (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components;

(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);

(iv) Floors over unheated spaces insulated to a level of R-19 in zone 1 and R-30 in zone 2 (R value includes insulation only);

(v) Slab on grade floors insulated to a level of R-10 at the perimeter;

(vi) Heat pumps with a minimum heating season performance factor (HSPF) of 6.8 or with all other energy sources with a minimum annual fuel utilization efficiency (AFUE) of seventy-eight percent;

(vii) Double glazed windows with values not more than U-0.65 in zone 1 and U-0.60 in zone 2. The state building code council, in consultation with the state energy office, shall review these U-values, and, if economically justified for consumers, shall amend the Washington state energy code to improve the U-values by December 1, 1993. The amendment shall not take effect until July 1, 1994; and

(viii) In zone 1, the maximum glazing area shall be twenty-one percent of the floor area. In zone 2 the maximum glazing area shall be seventeen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area.

(c) For log built homes with space heat other than electric resistance, the building code council shall establish equivalent thermal performance standards consistent with the standards and maximum glazing areas of (b) of this subsection.

(d) The state building code council may approve an energy code for pilot projects of residential construction that use innovative energy efficiency technologies intended to result in savings that are greater than those realized in the levels specified in this section.

(5) U-values for glazing shall be determined using the area weighted average of all glazing in the building. U-values for glazing are the tested values for thermal transmittance due to conduction resulting from either the American architectural manufacturers' association (AAMA) 1503.1 test procedure or the American society for testing materials (ASTM) C236 or C976 test procedures. Testing shall be conducted under established winter horizontal heat flow test conditions using the fifteen miles per hour wind speed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1 and product sample sizes specified under AAMA 1503.1. The AAMA 1503.1 testing must be conducted by an AAMA certified testing laboratory. The ASTM C236 or C976 testing U-values include any tested values resulting from a future revised AAMA 1503.1 test procedure. Sealed insulation glass, where used, shall conform to ASTM E-774-81 level A or better. The state

building code council shall maintain a list of the tested U-values for glazing products available in the state.

(6) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 1986 edition, as amended.

(7)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(8) The state building code council shall consult with the state energy office as provided in RCW 34.05.310 prior to publication of proposed rules. The state energy office shall review the proposed rules for consistency with the guidelines adopted in subsection (4) of this section. The director of the state energy office shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(9) The state building code council shall conduct a study of county and city enforcement of energy codes in the state. In conducting the study, the council shall conduct public hearings at designated council meetings to seek input from interested individuals and organizations, and to the extent possible, hold these meetings in conjunction with adopting rules under this section. The study shall include recommendations as to how code enforcement may be improved. The findings of the study shall be submitted in a report to the legislature no later than January 1, 1991.

(10) If any electric utility providing electric service to customers in the state of Washington purchases at least one percent of its firm energy load from a federal agency, pursuant to section 5.(b)(1) of the Pacific Northwest electric power planning and conservation act (P.L. 96-501), and such utility is unable to obtain from that agency at least fifty percent of the funds for payments required by RCW 19.27A.035, the amendments to this section by chapter 2, Laws of 1990 shall be null and void, and the 1986 state energy code shall be in effect, except that a city, town, or county may enforce a local energy code with more stringent energy requirements adopted prior to March 1, 1990. This subsection shall expire June 30, 1995. [1990 c 2 § 3; 1985 c 144 § 2; 1979 ex.s. c 76 § 3. Formerly RCW 19.27.075.]

**Effective dates**—1990 c 2: See note following RCW 19.27.040.

**Findings**—**Severability**—1990 c 2: See notes following RCW 19.27A.015.

**Severability**—1985 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 144 § 7.]

**19.27A.025 Nonresidential buildings—Minimum standards—Amendments.** (1) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and cost-effective to building owners and tenants.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory committee including representatives of appropriate state agencies, local governments, general contractors, building owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds majority vote. Substantial amendments to the code shall be adopted no more frequently than every three years. [1991 c 122 § 3.]

**Findings**—**Severability**—1991 c 122: See notes following RCW 80.04.250.

**19.27A.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.27A.035 Payments by electric utilities to owners of residential buildings—Recovery of expenses—Effect of Pacific Northwest electric power planning and conservation act—Expiration of subsections.** (1) Electric utilities shall make payments to the owner at the time of construction of a newly constructed residential building with electric resistance space heat built in compliance with the requirements of the Washington state energy code adopted pursuant to RCW 19.27A.020 or a residential energy code in effect pursuant to RCW 19.27A.020(7). All or a portion of the funds for payments may be accepted from federal agencies or other sources. Payments are required for residential buildings on which construction has begun on or after July 1, 1991, and prior to July 1, 1995. Payments in an amount equal to a fixed sum of at least nine hundred dollars per single family residence are required for such buildings so constructed which are single family residences having two thousand square feet or less of finished floor area. Payments in an amount equal to a fixed sum of at least

three hundred ninety dollars per multifamily residential unit, are required for such buildings so constructed which are multifamily residential units. For purposes of this section, a zero lot line home and each unit in a duplex and each attached housing unit in a planned unit development shall each be considered a single family residence.

(2) Electric utilities which provide electrical service in jurisdictions in which the local government has adopted an energy code not preempted by RCW 19.27A.020(7)(b) shall make payments as provided in subsection (1) of this section for residential buildings on which construction has begun on or after March 1, 1990, and prior to July 1, 1991.

(3) Nothing in this section shall prohibit an electric utility from providing incentives in excess of the payments required by this section or from providing additional incentives for energy efficiency measures in excess of those required under RCW 19.27A.020.

(4) This section is null and void if any electric utility providing electric service to its customers in the state of Washington purchases at least one percent of its firm energy load from a federal agency, pursuant to section 5.(b)(1) of the Pacific Northwest electric power planning and conservation act (P.L. 96-501), and if such electric utility is unable to obtain from the agency at least fifty percent of the funds to make the payments required by this section. This subsection shall expire June 30, 1995.

(5) The utilities and transportation commission shall provide an appropriate regulatory mechanism which allows a utility regulated by the commission to recover expenses incurred by the utility in making payments under this section.

(6) Subsections (1) through (3) of this section shall expire July 1, 1996. [1990 c 2 § 4.]

**Effective dates**—1990 c 2: See note following RCW 19.27.040.

**Findings**—**Severability**—1990 c 2: See notes following RCW 19.27A.015.

**19.27A.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.27A.045 Maintaining energy code for residential structures.** The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year. [1990 c 2 § 5.]

**Findings**—**Severability**—1990 c 2: See notes following RCW 19.27A.015.

**19.27A.055 Energy code training account.** There is hereby created in the state treasury the energy code training account. The Washington state energy office shall administer expenditures from this account for the purpose of providing training for the inspection and training for the enforcement by local governments of the Washington state energy code in effect pursuant to RCW 19.27A.020. The revenues into this account shall derive from assessments by the state energy office on all investor-owned and publicly owned gas and electric utilities in the state of Washington in proportion to the number of housing starts served by a utility in 1989, based on an amount of one hundred fifty dollars per energy code inspection or enforcement official that is within the service area of the utility. Assessments may be made between January 1, 1991, and July 1, 1991. Federal funds available to qualifying utilities for code inspection retraining shall be used before obtaining funds from utilities under this section. Additional funds may be deposited in the account from federal agencies or other sources. All or a portion of the funds for the cost of local government inspection and enforcement may be accepted from federal agencies or other sources. [1990 c 2 § 6.]

**Effective dates**—1990 c 2: See note following RCW 19.27.040.

**Findings**—**Severability**—1990 c 2: See notes following RCW 19.27A.015.

## Chapter 19.31

### EMPLOYMENT AGENCIES

#### Sections

19.31.020	Definitions.
19.31.245	Licensing prerequisite to suit by employment agency—Action against unlicensed employment agency.

**19.31.020 Definitions.** Unless a different meaning is clearly required by the context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Employment agency" is synonymous with "agency" and shall mean any business in which any part of the business gross or net income is derived from a fee received from applicants, and in which any of the following activities are engaged in:

(a) The offering, promising, procuring, or attempting to procure employment for applicants; or

(b) The giving of information regarding where and from whom employment may be obtained.

In addition the term "employment agency" shall mean and include any person, bureau, employment listing or employment referral service, organization, or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the

same is to secure employment. It also includes any business that provides a resume to an individual and provides that person with a list of names to whom the resume may be sent or provides that person with preaddressed envelopes to be mailed by the individual or by the business itself. The term "employment agency" shall not include labor union organizations, temporary service contractors, proprietary schools, theatrical agencies, farm labor contractors, or the Washington state employment agency.

(2) "Temporary service contractors" shall mean any person, firm, association, or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part time or temporary help basis to others.

(3) "Theatrical agency" means any person who, for a fee or commission, procures or attempts to procure on behalf of an individual or individuals, employment or engagements for circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling, or other entertainments, exhibitions, or performances.

(4) "Farm labor contractor" means any person, or his agent, who, for a fee, employs workers to render personal services in connection with the production of any farm products, to, for, or under the direction of an employer engaged in the growing, producing, or harvesting of farm products, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing, producing, or harvesting of farm products or who provides in connection with recruiting, soliciting, supplying, or hiring workers engaged in the growing, producing, or harvesting of farm products, one or more of the following services: Furnishes board, lodging, or transportation for such workers, supervises, times, checks, counts, sizes, or otherwise directs or measures their work; or disburses wage payments to such persons.

(5) "Employer" means any person, firm, corporation, partnership, or association employing or seeking to enter into an arrangement to employ a person through the medium or service of an employment agency.

(6) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

(7) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(8) "Director" shall mean the director of licensing.

(9) "Resume" means a document of the applicant's employment history that is approved, received, and paid for by the applicant.

(10) "Fee" means anything of value. The term includes money or other valuable consideration or services or the promise of money or other valuable consideration

or services, received directly or indirectly by an employment agency from a person seeking employment, in payment for the service. [1990 c 70 § 1; 1979 c 158 § 82; 1977 ex.s. c 51 § 1; 1969 ex.s. c 228 § 2.]

**19.31.245 Licensing prerequisite to suit by employment agency—Action against unlicensed employment agency.** (1) No employment agency may bring or maintain a cause of action in any court of this state for compensation for, or seeking equitable relief in regard to, services rendered employers and applicants, unless such agency shall allege and prove that at the time of rendering the services in question, or making the contract therefor, it was the holder of a valid license issued under this chapter.

(2) Any person who shall give consideration of any kind to any employment agency for the performance of employment services in this state when said employment agency shall not be the holder of a valid license issued under this chapter shall have a cause of action against the employment agency. Any court having jurisdiction may enter judgment therein for treble the amount of such consideration so paid, plus reasonable attorney's fees and costs.

(3) A person performing the services of an employment agency or employment listing or employment referral service without holding a valid license shall cease operations or immediately apply for and obtain a valid license. If the person continues to operate in violation of this chapter the director or the attorney general has a cause of action in any court having jurisdiction for the return of any consideration paid by any person to the agency. The court may enter judgment in the action for treble the amount of the consideration so paid, plus reasonable attorney's fees and costs. [1990 c 70 § 2; 1977 ex.s. c 51 § 10.]

## Chapter 19.32 FOOD LOCKERS

### Sections

19.32.110 Diseased persons not to be employed—Health certificates.

**19.32.110 Diseased persons not to be employed—Health certificates.** (1) No person afflicted with any contagious or infectious disease shall work or be permitted to work in or about any refrigerated locker, nor in the handling, dealing nor processing of any human food in connection therewith.

(2) No person shall work or be permitted to work in or about any refrigerated locker in the handling, processing or dealing in any human food or any ingredient thereof without holding a certificate from a physician, duly accredited for that purpose by the department of health, certifying that such person has been examined and found free from any contagious or infectious disease. The department of health may fix a maximum fee, not exceeding two dollars which may be charged by a physician for such examination. Such certificate shall be effective for a period of six months and thereafter must be

renewed following proper physical examination as aforesaid. Where such certificate is required and provided under municipal ordinance upon examination deemed adequate by the department, certificates issued thereunder shall be sufficient under this chapter.

(3) Any such certificate shall be revoked by the department of health at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in such premises to submit to proper and reasonable physical examination upon written demand by the department of health or of the director of agriculture shall be cause for revocation of that person's health certificate. [1991 c 3 § 287; 1985 c 213 § 11; 1943 c 117 § 6; Rem. Supp. 1943 § 6294-130. Formerly RCW 19.32.110 through 19.32.140.]

**Savings—Effective date—1985 c 213:** See notes following RCW 43.20.050.

### Chapter 19.36

#### CONTRACTS AND CREDIT AGREEMENTS REQUIRING WRITINGS

(Formerly: Frauds, statute of)

##### Sections

19.36.100	"Credit agreement" defined.
19.36.110	Enforceability of credit agreements—Effect of oral agreements and partial performance.
19.36.120	Exempt agreements.
19.36.130	Notice required.
19.36.140	Notice—Form and contents.
19.36.900	Effective date—Application—1990 c 211.

**19.36.100 "Credit agreement" defined.** "Credit agreement" means an agreement, promise, or commitment to lend money, to otherwise extend credit, to forbear with respect to the repayment of any debt or the exercise of any remedy, to modify or amend the terms under which the creditor has lent money or otherwise extended credit, to release any guarantor or cosigner [cosigner], or to make any other financial accommodation pertaining to a debt or other extension of credit. [1990 c 211 § 1.]

**19.36.110 Enforceability of credit agreements—Effect of oral agreements and partial performance.** A credit agreement is not enforceable against the creditor unless the agreement is in writing and signed by the creditor. The rights and obligations of the parties to a credit agreement shall be determined solely from the written agreement, and any prior or contemporaneous oral agreements between the parties are superseded by, merged into, and may not vary the credit agreement. Partial performance of a credit agreement does not remove the agreement from the operation of this section. [1990 c 211 § 3.]

**19.36.120 Exempt agreements.** RCW 19.36.100 through 19.36.140 and 19.36.900 shall not apply to: (1) A promise, agreement, undertaking, document, or commitment relating to a credit card or charge card; or (2)

a loan of money or extension of credit to a natural person that is primarily for personal, family, or household purposes and not primarily for investment, business, agricultural, or commercial purposes. [1990 c 211 § 2.]

**19.36.130 Notice required.** If a notice complying with RCW 19.36.140, is not given simultaneously with or before a credit agreement is made, RCW 19.36.100 through 19.36.140 and 19.36.900 shall not apply to the credit agreement. Notice, once given to a debtor, shall be effective as to all subsequent credit agreements and effective against the debtor, and its guarantors, successors, and assigns. [1990 c 211 § 4.]

**19.36.140 Notice—Form and contents.** The creditor shall give notice to the other party on a separate document or incorporated into one or more of the documents relating to a credit agreement. The notice shall be in type that is bold face, capitalized, underlined, or otherwise set out from surrounding written materials so it is conspicuous. The notice shall state substantially the following:

Oral agreements or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under Washington law.

[1990 c 211 § 5.]

**19.36.900 Effective date—Application—1990 c 211.** RCW 19.36.100 through 19.36.140 shall take effect July 1, 1990, and shall apply only to credit agreements entered into on or after July 1, 1990. [1990 c 211 § 6.]

### Chapter 19.60

#### PAWNBROKERS AND SECOND-HAND DEALERS

##### Sections

19.60.010	Definitions.
19.60.020	Duty to record information.
19.60.040	Report to chief law enforcement officer.
19.60.045	Duties upon notification that property is reported stolen.
19.60.050	Retention of property by pawnbrokers—Inspection.
19.60.055	Retention of property by second-hand dealers—Inspection.
19.60.060	Rates of interest and other fees—Sale of pledged property.
19.60.061	Pawnbrokers—Sale of pledged property limited—Written document required for transactions.
19.60.062	Attorney fees and costs in action to recover possession or determine title or ownership.
19.60.066	Prohibited acts—Penalty. (Effective until January 1, 1992.)
19.60.066	Prohibited acts—Penalty. (Effective January 1, 1992.)
19.60.068	Resale agreement to avoid interest and fee restrictions prohibited.

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

(1) Melted metals means metals derived from metal junk or precious metals that have been reduced to a melted state from other than ore or ingots which are

produced from ore that has not previously been processed.

(2) Metal junk means any metal that has previously been milled, shaped, stamped, or forged and that is no longer useful in its original form, except precious metals.

(3) Nonmetal junk means any nonmetal, commonly discarded item that is worn out, or has outlasted its usefulness as intended in its original form except nonmetal junk does not include an item made in a former period which has enhanced value because of its age.

(4) Pawnbroker means every person engaged, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

(5) Precious metals means gold, silver, and platinum.

(6) Second-hand dealer means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, second-hand property including metal junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the state. Second-hand dealer also includes persons or entities conducting business at flea markets or swap meets, more than three times per year.

(7) Second-hand property means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, used books, and clothing of a resale value of seventy-five dollars or less, except furs.

(8) Transaction means a pledge, or the purchase of, or consignment of, or the trade of any item of personal property by a pawnbroker or a second-hand dealer from a member of the general public.

(9) Term of the loan as defined in this chapter shall be set for a period of thirty days to include the date of the loan. [1991 c 323 § 1; 1985 c 70 § 1; 1984 c 10 § 1; 1981 c 279 § 3; 1909 c 249 § 235; RRS § 2487. FORMER PARTS OF SECTION: (i) 1909 c 249 § 236; RRS § 2488, now codified as RCW 19.60.015. (ii) 1939 c 89 § 1; RRS § 2488-1, now codified as RCW 19.60.065.]

**19.60.020 Duty to record information.** (1) Every pawnbroker and second-hand dealer doing business in this state shall maintain wherever that business is conducted a record in which shall be legibly written in the English language, at the time of each transaction the following information:

(a) The signature of the person with whom the transaction is made;

(b) The date of the transaction;

(c) The name of the person or employee or the identification number of the person or employee conducting the transaction, as required by the applicable chief of police or the county's chief law enforcement officer;

(d) The name, date of birth, sex, height, weight, race, and address and telephone number of the person with whom the transaction is made;

(e) A complete description of the property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color or stone or stones, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun;

(f) The price paid or the amount loaned;

(g) The type and identifying number of identification used by the person with whom the transaction was made, which shall consist of a valid drivers license or identification card issued by any state or two pieces of identification issued by a governmental agency, one of which shall be descriptive of the person identified. At all times, one piece of current government issued picture identification will be required; and

(h) The nature of the transaction, a number identifying the transaction, the store identification as designated by the applicable law enforcement agency, or the name and address of the business and the name of the person or employee, conducting the transaction, and the location of the property.

(2) This record shall at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions, and shall be maintained wherever that business is conducted for three years following the date of the transaction. [1991 c 323 § 2; 1984 c 10 § 3; 1909 c 249 § 229; RRS § 2481.]

**19.60.040 Report to chief law enforcement officer.**

(1) Upon request, every pawnbroker and second-hand dealer doing business in the state shall furnish a full, true, and correct transcript of the record of all transactions conducted on the preceding day. These transactions shall be recorded on such forms as may be provided and in such format as may be required by the chief of police or the county's chief law enforcement officer within a specified time not less than twenty-four hours. This information may be transmitted to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) If a pawnbroker or second-hand dealer has good cause to believe that any property in his or her possession has been previously lost or stolen, the pawnbroker or second-hand dealer shall promptly report that fact to the applicable chief of police or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when, and the name of the person from whom it was received. [1991 c 323 § 3; 1984 c 10 § 6; 1909 c 249 § 231; RRS § 2483.]

**19.60.045 Duties upon notification that property is reported stolen.** Following notification from a law enforcement agency that an item of property has been reported as stolen, the pawnbroker or second-hand dealer shall hold that property intact and safe from alteration, damage, or commingling. The pawnbroker or second-

hand dealer shall place an identifying tag or other suitable identification upon the property so held. Property held shall not be released for one hundred twenty days from the date of police notification unless released by written consent of the applicable law enforcement agency or by order of a court of competent jurisdiction. In cases where the applicable law enforcement agency has placed a verbal hold on an item, that agency must then give written notice within ten business days. If such written notice is not received within that period of time, then the hold order will cease. The pawnbroker or second-hand dealer shall give a twenty-day written notice before the expiration of the one hundred twenty-day holding period to the applicable law enforcement agency about the stolen property. If notice is not given within twenty days, then the hold on the property shall continue for an additional one hundred twenty days. The applicable law enforcement agency may renew the holding period for additional one hundred twenty-day periods as necessary. After the receipt of notification from a pawnbroker or second-hand dealer, if an additional holding period is required, the applicable law enforcement agency shall give the pawnbroker or second-hand dealer written notice, prior to the expiration of the existing hold order. A law enforcement agency shall not place on hold any item of personal property unless that agency reasonably suspects that the item of personal property is a lost or stolen item. Any hold that is placed on an item will be removed as soon as practicable after the item on hold is determined not to be stolen or lost. [1991 c 323 § 4; 1984 c 10 § 5.]

*Receiving stolen property: RCW 9A.56.140 through 9A.56.170.*

**19.60.050 Retention of property by pawnbrokers—Inspection.** Property bought or received in pledge by any pawnbroker shall not be removed from that place of business, except when redeemed by, or returned to the owner, within thirty days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions. [1991 c 323 § 5; 1984 c 10 § 8; 1909 c 249 § 232; RRS § 2484.]

*Restoration of stolen property: RCW 9.54.130.*

**19.60.055 Retention of property by second-hand dealers—Inspection.** (1) Property bought or received on consignment by any second-hand dealer with a permanent place of business in the state shall not be removed from that place of business except consigned property returned to the owner, within thirty days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions.

(2) Property bought or received on consignment by any second-hand dealer without a permanent place of business in the state, shall be held within the city or county in which the property was received, except consigned property returned to the owner, within thirty days

after receipt of the property. The property shall be available within the appropriate jurisdiction for inspection at reasonable times by any commissioned law enforcement officer of the state or any of its political subdivisions. [1991 c 323 § 6; 1984 c 10 § 7.]

**19.60.060 Rates of interest and other fees—Sale of pledged property.** All pawnbrokers are authorized to charge and receive interest and other fees at the following rates for money on the security of personal property actually received in pledge:

(1) The interest shall not exceed:

(a) For an amount loaned up to \$ 9.99 – interest at \$1.00 for each thirty-day period to include the loan date.

(b) For an amount loaned from \$10.00 to \$19.99 – interest at the rate of \$1.25 for each thirty-day period to include the loan date.

(c) For an amount loaned from \$20.00 to \$24.99 – interest at the rate of \$1.50 for each thirty-day period to include the loan date.

(d) For an amount loaned from \$25.00 to \$34.99 – interest at the rate of \$1.75 for each thirty-day period to include the loan date.

(e) For an amount loaned from \$35.00 to \$39.99 – interest at the rate of \$2.00 for each thirty-day period to include the loan date.

(f) For an amount loaned from \$40.00 to \$49.99 – interest at the rate of \$2.25 for each thirty-day period to include the loan date.

(g) For the amount loaned from \$50.00 to \$59.99 – interest at the rate of \$2.50 for each thirty-day period to include the loan date.

(h) For the amount loaned from \$60.00 to \$69.99 – interest at the rate of \$2.75 for each thirty-day period to include the loan date.

(i) For the amount loaned from \$70.00 to \$79.99 – interest at the rate of \$3.00 for each thirty-day period to include the loan date.

(j) For the amount loaned from \$80.00 to \$89.99 – interest at the rate of \$3.25 for each thirty-day period to include the loan date.

(k) For the amount loaned from \$90.00 to \$99.99 – interest at the rate of \$3.50 for each thirty-day period to include the loan date.

(l) For the amount loaned from \$100.00 or more – interest at the rate of three percent for each thirty-day period to include the loan date.

(2) The fee for the preparation of loan documents, pledges, or reports required under the laws of the United States of America, the state of Washington, or the counties, cities, towns, or other political subdivisions thereof, shall not exceed:

(a) For the amount loaned up to \$4.99 – the sum of \$.50;

(b) For the amount loaned from \$5.00 to \$9.99 – the sum of \$2.00;

(c) For the amount loaned from \$10.00 to \$14.99 – the sum of \$3.00;

(d) For the amount loaned from \$15.00 to \$19.99 – the sum of \$3.50.

- (e) For the amount loaned from \$20.00 to \$24.99 – the sum of \$4.00.
- (f) For the amount loaned from \$25.00 to \$29.99 – the sum of \$4.50.
- (g) For the amount loaned from \$30.00 to \$34.99 – the sum of \$5.00.
- (h) For the amount loaned from \$35.00 to \$39.99 – the sum of \$5.50.
- (i) For the amount loaned from \$40.00 to \$44.99 – the sum of \$6.00.
- (j) For the amount loaned from \$45.00 to \$49.99 – the sum of \$6.50.
- (k) For the amount loaned from \$50.00 to \$54.99 – the sum of \$7.00.
- (l) For the amount loaned from \$55.00 to \$59.99 – the sum of \$7.50.
- (m) For the amount loaned from \$60.00 to \$64.99 – the sum of \$8.00.
- (n) For the amount loaned from \$65.00 to \$69.99 – the sum of \$8.50.
- (o) For the amount loaned from \$70.00 to \$74.99 – the sum of \$9.00.
- (p) For the amount loaned from \$75.00 to \$79.99 – the sum of \$9.50.
- (q) For the amount loaned from \$80.00 to \$84.99 – the sum of \$10.00.
- (r) For the amount loaned from \$85.00 to \$89.99 – the sum of \$10.50.
- (s) For the amount loaned from \$90.00 to \$94.99 – the sum of \$11.00.
- (t) For the amount loaned from \$95.00 to \$99.99 – the sum of \$11.50.
- (u) For the amount loaned from \$100.00 to \$104.99 – the sum of \$12.00.
- (v) For the amount loaned from \$105.00 to \$109.99 – the sum of \$12.25.
- (w) For the amount loaned from \$110.00 to \$114.99 – the sum of \$12.75.
- (x) For the amount loaned from \$115.00 to \$119.99 – the sum of \$13.25.
- (y) For the amount loaned from \$120.00 to \$124.99 – the sum of \$13.50.
- (z) For the amount loaned from \$125.00 to \$129.99 – the sum of \$13.75.
- (aa) For the amount loaned from \$130.00 to \$149.99 – the sum of \$14.50.
- (bb) For the amount loaned from \$150.00 to \$174.99 – the sum of \$14.75.
- (cc) For the amount loaned from \$175.00 to \$199.99 – the sum of \$15.00.
- (dd) For the amount loaned from \$200.00 to \$224.99 – the sum of \$16.00.
- (ee) For the amount loaned from \$225.00 to \$249.99 – the sum of \$17.00.
- (ff) For the amount loaned from \$250.00 to \$274.99 – the sum of \$18.00.
- (gg) For the amount loaned from \$275.00 to \$299.99 – the sum of \$19.00.
- (hh) For the amount loaned from \$300.00 to \$324.99 – the sum of \$20.00.

- (ii) For the amount loaned from \$325.00 to \$349.99 – the sum of \$21.00.
- (jj) For the amount loaned from \$350.00 to \$374.99 – the sum of \$22.00.
- (kk) For the amount loaned from \$375.00 to \$399.99 – the sum of \$23.00.
- (ll) For the amount loaned from \$400.00 to \$424.99 – the sum of \$24.00.
- (mm) For the amount loaned from \$425.00 to \$449.99 – the sum of \$25.00.
- (nn) For the amount loaned from \$450.00 to \$474.99 – the sum of \$26.00.
- (oo) For the amount loaned from \$475.00 to \$499.99 – the sum of \$27.00.
- (pp) For the amount loaned from \$500.00 to \$524.99 – the sum of \$28.00.
- (qq) For the amount loaned from \$525.00 to \$549.99 – the sum of \$29.00.
- (rr) For the amount loaned from \$550.00 to \$599.99 – the sum of \$30.00.
- (ss) For the amount loaned from \$600.00 to \$699.99 – the sum of \$35.00.
- (tt) For the amount loaned from \$700.00 to \$799.99 – the sum of \$40.00.
- (uu) For the amount loaned from \$800.00 to \$899.99 – the sum of \$40.00.
- (vv) For the amount loaned from \$900.00 to \$999.99 – the sum of \$50.00.
- (ww) For the amount loaned from \$1000.00 to \$1499.99 – the sum of \$55.00.
- (xx) For the amount loaned from \$1500.00 to \$1999.99 – the sum of \$60.00.
- (yy) For the amount loaned from \$2000.00 to \$2499.99 – the sum of \$65.00.
- (zz) For the amount loaned from \$2500.00 to \$2999.99 – the sum of \$70.00.
- (aaa) For the amount loaned from \$3000.00 to \$3499.99 – the sum of \$75.00.
- (bbb) For the amount loaned from \$3500.00 to \$3999.99 – the sum of \$80.00.
- (ccc) For the amount loaned from \$4000.00 to \$4499.99 – the sum of \$85.00.
- (ddd) For the amount loaned from \$4500.00 or more – the sum of \$90.00.

(3) Fees under subsection (2) of this section may be charged one time only during the term of the loan.

A copy of this section, set in twelve point type or larger, shall be posted prominently in each premises subject to this chapter. [1991 c 323 § 7; 1984 c 10 § 9; 1973 1st ex.s. c 91 § 1; 1909 c 249 § 234; RRS § 2486.]

*Interest—Usury: Chapter 19.52 RCW.*

**19.60.061 Pawnbrokers—Sale of pledged property limited—Written document required for transactions.**

(1) A pawnbroker shall not sell any property received in pledge, until both the term of the loan and a grace period of a minimum of sixty days has expired. However, if a pledged article is not redeemed within the ninety-day period of both the term of the loan and the grace period, the pawnbroker shall have all rights, title, and

interest of that item of personal property. The pawnbroker shall not be required to account to the pledgor for the proceeds received from the disposition of that item. Any provision of law relating to the foreclosures and the subsequent sale of forfeited pledged items, shall not be applicable to any pledge as defined under this chapter, the title to which is transferred in accordance with this section.

(2) Every transaction entered into by a pawnbroker shall be evidenced by a written document, a copy of which shall be furnished to the pledgor. The document shall set forth the term of the loan, the date on which the loan is due and payable, and shall inform the pledgor of the pledgor's right to redeem the pledge within sixty days after the expiration of the loan term. [1991 c 323 § 8; 1984 c 10 § 10.]

**19.60.062 Attorney fees and costs in action to recover possession or determine title or ownership.** By either party, in an action brought by an owner to recover goods in the possession of a pawnbroker or second-hand dealer, or an action brought by a pawnbroker or second-hand dealer against an owner, or a person claiming ownership, to determine title or ownership of any item, the prevailing party is entitled to reasonable attorney's fees and costs. [1991 c 323 § 9; 1984 c 10 § 11; 1979 ex.s. c 41 § 1.]

**19.60.066 Prohibited acts—Penalty.** (Effective until January 1, 1992.) It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased, consigned, or received in pledge. In addition an item shall not be accepted for pledge or a second-hand purchase where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property has been removed, altered, or obliterated;

(2) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(3) Any pawnbroker or second-hand dealer to receive any property from any person under the age of eighteen years, any person under the influence of intoxicating liquor or drugs, or any person known to the pawnbroker or second-hand dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another; or

(4) Any person to violate knowingly any other provision of this chapter. [1991 c 323 § 10; 1984 c 10 § 12.]

**19.60.066 Prohibited acts—Penalty.** (Effective January 1, 1992.) It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased, consigned, or received in pledge. In addition an item shall not be accepted for pledge or a second-hand purchase where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property has been removed, altered, or obliterated;

(2) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(3) Any pawnbroker or second-hand dealer to receive any property from any person under the age of eighteen years, any person under the influence of intoxicating liquor or drugs, or any person known to the pawnbroker or second-hand dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another;

(4) Any pawnbroker to engage in the business of cashing or selling checks, drafts, money orders, or other commercial paper serving the same purpose unless the pawnbroker complies with the provisions of chapter 31.45 RCW; or

(5) Any person to violate knowingly any other provision of this chapter. [1991 c 355 § 21; 1991 c 323 § 10; 1984 c 10 § 12.]

**Reviser's note:** This section was amended by 1991 c 323 § 10 and by 1991 c 355 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date, implementation—1991 c 355:** See RCW 31.45.900.

**19.60.068 Resale agreement to avoid interest and fee restrictions prohibited.** A purchase of personal property shall not be made on the condition of selling it back at a stipulated time and price greater than the purchase price, for the purpose of avoiding the interest and fee restrictions of this chapter. [1991 c 323 § 11.]

## Chapter 19.86

### UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION

#### Sections

19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty.

*Motor vehicle subleasing or transfer: Chapter 19.116 RCW.*

**19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—**

**Use—Penalty.** (1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate, which he believes to be relevant to the subject matter of an investigation of a possible violation of RCW 19.86-.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or federal statutes dealing with the same or similar matters that the attorney general is authorized to enforce, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, he may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information: **PROVIDED**, That this section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) If the demand is for the production of documentary material, describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a request for deposition upon oral examination issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer or managing agent of the person to be served; or

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served

at the principal place of business in this state, or, if said person has no place of business in this state, to his principal office or place of business.

(5)(a) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) If, after prior court approval, a civil investigative demand specifically prohibits disclosure of the existence or content of the demand, unless otherwise ordered by a superior court for good cause shown, it shall be a misdemeanor for any person if not a bank, trust company, mutual savings bank, credit union, or savings and loan association organized under the laws of the United States or of any one of the United States to disclose to any other person the existence or content of the demand, except for disclosure to counsel for the recipient of the demand or unless otherwise required by law.

(7) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony, except as otherwise provided in this section: **PROVIDED**, That, under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced such material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of such person. The attorney general or any

assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he determines necessary in the enforcement of this chapter, including presentation before any court: PROVIDED, That any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony.

(8) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1), stating good cause, may be filed in the superior court for Thurston county, or in such other county where the parties reside. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(9) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon him under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the trial court of general jurisdiction of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions. [1990 c 199 § 1; 1987 c 152 § 1; 1982 c 137 § 1; 1970 ex.s. c 26 § 4; 1961 c 216 § 11.]

*Rules of court: See Superior Court Civil Rules.*

#### Chapter 19.94

### WEIGHTS AND MEASURES—1969 ACT

#### Sections

19.94.150 Standards recognized.  
19.94.160 State standards.

[1990-91 RCW Supp—page 330]

19.94.190 Rules—Apparatus, correct and incorrect.  
19.94.200 Testing, inspecting, approving standards, weights and measures of cities and institutions.  
19.94.215 Inspection and testing of railroad track scales—Testing of other scales.  
19.94.220 Investigations, purposes.  
19.94.240 Stop-use, stop-removal and removal orders.  
19.94.250 Rejection of incorrect weights and measures.  
19.94.260 Seizure for use as evidence—Entry of premises—Search warrant.  
19.94.290 City sealers and deputies—Bond.  
19.94.300 City sealers and deputies—Powers and duties.  
19.94.330 Correction of rejected weights and measures.  
19.94.340 Sales of commodities—How measured—Exceptions—Rules to assure good practice and accuracy.  
19.94.350 Packaged commodities in intrastate commerce—Declaration of contents on outside—Rules.  
19.94.420 Fluid dairy products to be packaged for retail sale in certain units.  
19.94.440 Commodities sold in bulk—Delivery tickets.  
19.94.450 Solid fuels to be sold by weight—Delivery tickets.

**19.94.150 Standards recognized.** The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in this state. The definitions of basic units of weight and measure and weights and measures equivalents, as published by the national institute of standards and technology, are recognized and shall govern weighing and measuring equipment and transactions in the state. [1991 1st sp.s. c 23 § 4; 1969 c 67 § 15.]

**Legislative findings—1991 1st sp.s. c 23:** "The legislature finds:

(1) Accurate weights and measures are essential for the efficient operation of commerce in Washington, and weights and measures are important to both consumers and businesses.

(2) Legislation to expand the weights and measures program and fund the program with license fees on weights and measures devices has been considered.

(3) Additional information is necessary before further action can be taken." [1991 1st sp.s. c 23 § 1.]

**Intent—1991 1st sp.s. c 23:** "It is the intent of the legislature to fund the current weights and measures program only through the first year of the 1991-93 fiscal biennium, and to base funding of the program for the second year of the biennium and ensuing biennia upon the recommendations of the study performed under section 3, chapter 23, Laws of 1991 1st sp. sess." [1991 1st sp.s. c 23 § 2.]

**19.94.160 State standards.** Weights and measures in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state standards, shall, when the same shall have been certified as such by the national institute of standards and technology, be the state standards of weight and measure. The state standards shall be kept in a place designated by the director and shall not be removed from the said place except for repairs or for certification: PROVIDED, That they shall be submitted at least once in ten years to the national institute of standards and technology for certification. [1991 1st sp.s. c 23 § 5; 1969 c 67 § 16.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.190 Rules—Apparatus, correct and incorrect.** The director shall enforce the provisions of this

chapter and shall adopt rules for enforcing and carrying out the purposes of this chapter. Such rules shall have the effect of law and may include (1) standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form, (2) the governing technical and reporting procedures to be followed, and the report and record forms and marks of rejection to be used by the director and city sealers in the discharge of their official duties, (3) the governing technical test procedures, reporting procedures, record and reporting forms to be used by commercial firms when installing, repairing or testing commercial weights or measures, (4) the criteria that all weights and measures used by commercial firms in repairing or servicing commercial weighing and measuring devices shall be calibrated by the department and be directly traceable to state standards and shall be submitted to the department for calibration and certification as necessary and/or at such reasonable intervals as may be established or required by the director, (5) exemptions from the sealing or marking requirements of RCW 19.94.250 with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question, (6) provisions that allow the director to establish fees for weighing, measuring, and providing calibration services performed by the weights and measures laboratory, with all money collected under this subsection paid to the director and deposited in an account within the agricultural local fund to be used for the repair and maintenance of weights and measures devices and other related functions, (7) exemptions from the requirements of RCW 19.94.200 and 19.94.210 for testing, with respect to classes of weights and measures found to be of such character that periodic retesting is unnecessary to continued accuracy. These rules shall include specifications, tolerances, and rules for weights and measures of the character of those specified in RCW 19.94.210, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (a) that are not accurate, (b) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (c) that facilitate the perpetration of fraud. The specifications, tolerances, and rules for commercial weighing and measuring devices, together with amendments thereto, as recommended by the most recent edition of Handbook 44 published by the national institute of standards and technology shall be the specifications, tolerances, and regulations for commercial weighing and/or measuring devices of the state. To promote uniformity, any supplements or amendments to Handbook 44 or any similar subsequent publication of the national institute of standards and technology shall be deemed to have been adopted under this section. The director may, however, within thirty days of the publication or effective date of Handbook 44 or any supplements, amendments, or similar publications give public notice that a hearing will be

held to determine if such publications should not be applicable under this section. The hearing shall be conducted under chapter 34.05 RCW. For the purpose of this chapter, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; all other apparatus shall be deemed to be "incorrect". [1991 1st sp.s. c 23 § 6; 1989 c 354 § 36; 1977 ex.s. c 26 § 5; 1969 c 67 § 19.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**Severability—1989 c 354:** See note following RCW 15.32.010.

**19.94.200 Testing, inspecting, approving standards, weights and measures of cities and institutions.** The director shall test the standards of weight and measure procured by any city for which the appointment of a sealer of weights and measures is provided by this chapter, at least once every five years, and shall approve the same when found to be correct, and the director shall inspect such standards at least once every two years. The director shall test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and the director shall report the findings, in writing, to the executive officer of the institution concerned. [1991 1st sp.s. c 23 § 7; 1969 c 67 § 20.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.215 Inspection and testing of railroad track scales—Testing of other scales.** All railroad track scale owners in this state shall provide suitable facilities for testing track scales. The department is authorized, after a hearing, upon its own motion, and after notice to track scale owners, to order the track scale owners in this state to provide a suitable car or other device or facility to be used in testing track scales. The cost of providing the car, device, or facility shall be equitably and reasonably apportioned by the department among all track scale owners benefiting from the car, device, or facility. The car, device, or facility shall be used by the department to test the accuracy of all track scales, and the railroad companies shall without charge, move the car, device, or facility to locations designated by the department, under such rules as the department may prescribe. The car, device, or facility may be used in adjoining states to test railroad track scales and for that purpose may be taken beyond the limits of the state under such rules for its due care and return as the department may prescribe. The car, device, or facility may also be used for the testing of scales other than railroad track scales as determined to be appropriate by the department. The department is authorized to prescribe and collect a reasonable fee to cover all costs for the inspection and testing of track scales. The moneys collected by the department shall be placed in an account in the agriculture local fund. [1990 c 27 § 1.]

**19.94.220 Investigations, purposes.** The director shall investigate complaints made concerning violations of the

provisions of this chapter, and shall, upon his or her own initiative, conduct such investigations as deemed appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions. [1991 1st sp.s. c 23 § 8; 1969 c 67 § 22.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.240 Stop-use, stop-removal and removal orders.** The director shall have the power to issue stop-use orders, stop-removal orders and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, exposed for sale, sold or in process of delivery, whenever in the course of his or her enforcement of the provisions of this chapter or rules adopted hereunder he or she deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified or fail to remove from any premises specified any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order or removal order issued under the authority of this section. [1991 1st sp.s. c 23 § 9; 1969 c 67 § 24.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.250 Rejection of incorrect weights and measures.** The director shall reject and mark or tag as "rejected" such weights and measures as he or she finds upon inspection or test to be "incorrect" as defined in RCW 19.94.190, but which in his or her best judgment are susceptible of satisfactory repair: PROVIDED, That such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by rule of the director issued under the authority of RCW 19.94.190. The director may reject or seize any weights and measures found to be incorrect that, in his or her best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by RCW 19.94.330 or if used or disposed of contrary to the requirements of said section. [1991 1st sp.s. c 23 § 10; 1969 c 67 § 25.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.260 Seizure for use as evidence—Entry of premises—Search warrant.** (1) With respect to the enforcement of this chapter and any other acts dealing with weights and measures that he or she is, or may be empowered to enforce, the director is authorized to seize for use as evidence incorrect or unsealed weights and measures or amounts or packages of commodities to be

used, retained, offered, exposed for sale or sold in violation of the law.

(2) In the performance of his or her official duties the director is authorized at reasonable times during the normal business hours of the person using the weights and measures to enter into or upon any structure or premises where weights and measures are used or kept for commercial purposes. Should the director be denied access to any premises or establishment where such access was sought for the purposes set forth in this section, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may, upon such application, issue the search warrant for the purposes requested. [1991 1st sp.s. c 23 § 11; 1969 c 67 § 26.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.290 City sealers and deputies—Bond.** A bond with sureties, to be approved by the appointing power, and conditioned upon the faithful performance of duties and the safekeeping of any standards or equipment entrusted to the city sealer's care, shall forthwith, upon his or her appointment, be given by each city sealer and deputy sealer in the penal sum of one thousand dollars; the premium on such bond shall be paid by the city for which the officer in question is appointed. [1991 1st sp.s. c 23 § 12; 1969 c 67 § 29.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.300 City sealers and deputies—Powers and duties.** The city sealer and his or her deputy sealers when acting under his or her instructions and at his or her direction shall have the same powers and shall perform the same duties within the city for which appointed as are granted to and imposed upon the director by RCW 19.94.210, 19.94.220, 19.94.230, 19.94.240, and 19.94.250. [1991 1st sp.s. c 23 § 13; 1969 c 67 § 30.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.330 Correction of rejected weights and measures.** Weights and measures that have been rejected under the authority of the director or a city sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within thirty days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such a manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined or until standardized corrective measures have been instituted as prescribed by rule as adopted by the department. [1991 1st sp.s. c 23 § 14; 1969 c 67 § 33.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.340 Sales of commodities—How measured—Exceptions—Rules to assure good practice and accuracy.** Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this chapter, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count: PROVIDED, That liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold: AND PROVIDED FURTHER, That the provisions of this section shall not apply (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the head or bunch, (3) to commodities in containers standardized by a law of this state or by federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (6) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The director may issue such reasonable rules as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented to be accurate and informative to all interested parties. [1991 1st sp.s. c 23 § 15; 1969 c 67 § 34.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.350 Packaged commodities in intrastate commerce—Declaration of contents on outside—Rules.** Except as otherwise provided in this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, offered or exposed for sale or sold in intrastate commerce, shall bear on the outside of the package such definite, plain, and conspicuous declaration of (1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container; (2) the net quantity of the contents in terms of weight, measure or count; and (3) in the case of any package not sold on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by rule issued by the director: PROVIDED, That in connection with the declaration required under subsection (2) of this section, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo", "giant", "full", "or over", and the like) that tends to exaggerate the amount of commodity in a package, shall be used: AND PROVIDED FURTHER, That under subsection (2) of this section the director

shall by rule establish (a) reasonable variations to be allowed, (b) exemptions as to small packages and (c) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer. [1991 1st sp.s. c 23 § 16; 1969 c 67 § 35.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.420 Fluid dairy products to be packaged for retail sale in certain units.** All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream and buttermilk and all fluid imitation and fluid substitute dairy products shall be packaged for retail sale only in units as provided by the director of the department of agriculture by rule pursuant to the provisions of chapter 34.05 RCW. [1991 1st sp.s. c 23 § 17; 1975 1st ex.s. c 51 § 1; 1969 c 67 § 42.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.440 Commodities sold in bulk—Delivery tickets.** When a vehicle delivers to an individual purchaser a commodity in bulk, and the commodity is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket with the following information clearly stated, in ink or other indelible marking equipment and, in clarity, equal to type or printing: (1) the name and address of the vendor, (2) the name and address of the purchaser, and (3) the net weight of the delivery expressed in pounds, and, if the net weight is derived from determinations of gross and tare weights, such gross and tare weights also shall be stated in terms of pounds. One of these tickets shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered on demand to the director or the deputy director or the inspector, or the sealer or deputy sealer, who, if he or she desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: PROVIDED, That if the purchaser himself or herself carries away the purchase, the vendor shall be required only to give the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to the purchaser. [1991 1st sp.s. c 23 § 18; 1969 c 67 § 44.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.450 Solid fuels to be sold by weight—Delivery tickets.** All solid fuels such as, but not limited to, coal, coke, charcoal, broiler chips, pressed fuels and briquets shall be sold by weight: PROVIDED, That solid fuels such as hogged fuel, sawdust and similar industrial fuels may be sold or purchased by cubic measure. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke, or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance,

there shall be clearly stated (1) the name and address of the vendor; (2) the name and address of the purchaser; and (3) the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director or his or her deputy or inspector or a city sealer or deputy sealer who, if he or she desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: PROVIDED, That if the purchaser carries away the purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to the purchaser. [1991 1st sp.s. c 23 § 19; 1969 c 67 § 45.]

**Legislative findings—Intent—1991 1st sp.s. c 23:** See notes following RCW 19.94.150.

### Chapter 19.98

#### FARM IMPLEMENTS, MACHINERY, PARTS

##### Sections

19.98.100	Findings.
19.98.110	Definitions.
19.98.120	Violations.
19.98.130	Termination, cancellation, or nonrenewal of dealer agreement—Notice.
19.98.140	Actions against suppliers—Remedies.
19.98.150	Successors in interest.
19.98.911	Severability—1990 c 124.
19.98.912	Effective date—Application—1990 c 124.

**19.98.100 Findings.** The legislature of this state finds that the retail distribution and sales of agricultural equipment, utilizing independent retail business operating under agreements with the manufacturers and distributors, vitally affects the general economy of the state, public interests, and public welfare and that it is necessary to regulate the business relations between the independent dealers and the equipment manufacturers, wholesalers, and distributors. [1990 c 124 § 1.]

**19.98.110 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 19.98.100 through 19.98.150 and 19.98.911:

(1) "Equipment" means machinery consisting of a framework, various fixed and moving parts, driven by an internal combustion engine, and all other implements associated with this machinery that are designed for or adapted and used for agriculture, horticulture, livestock, or grazing use.

(2) "Equipment dealer" or "equipment dealership" means any person, partnership, corporation, association, or other form of business enterprise, primarily engaged in retail sale or service of equipment in this state, pursuant to any oral or written agreement for a definite or indefinite period of time in which there is a continuing commercial relationship in the marketing of the equipment or related services, but does not include dealers covered by chapter 46.70 or 46.94 RCW.

(3) "Supplier" means the manufacturer, wholesaler, or distributor of the equipment to be sold by the equipment dealer.

(4) "Dealer agreement" means a contract or agreement, either expressed or implied, whether oral or written, between a supplier and an equipment dealer, by which the equipment dealer is granted the right to sell, distribute, or service the supplier's equipment where there is a continuing commercial relationship between the supplier and the equipment dealer.

(5) "Continuing commercial relationship" means any relationship in which the equipment dealer has been granted the right to sell or service equipment manufactured by [the] supplier.

(6) "Good cause" means failure by an equipment dealer to substantially comply with essential and reasonable requirements imposed upon the equipment dealer by the dealer agreement, provided such requirements are not different from those requirements imposed on other similarly situated equipment dealers in the state either by their terms or in the manner of their enforcement. [1990 c 124 § 2.]

**19.98.120 Violations.** It shall be a violation of this chapter for a supplier to:

(1) Require or attempt to require any equipment dealer to order or accept delivery of any equipment or parts or any equipment with special features or accessories not included in the base list price of such equipment as publicly advertised by the supplier which the equipment dealer has not voluntarily ordered;

(2) Require or attempt to require any equipment dealer to enter into any agreement, whether written or oral, supplementary to an existing dealer agreement with the supplier, unless such supplementary agreement is imposed on other similarly situated dealers in the state;

(3) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of the equipment dealer's order, to any equipment dealer having a dealer agreement for the retail sale of new equipment sold or distributed by the supplier, equipment covered by the dealer agreement specifically advertised or represented by the supplier to be available for immediate delivery. However, the failure to deliver any such equipment shall not be considered a violation of this chapter when deliveries are based on prior ordering histories, the priority given to the sequence in which the orders are received, or manufacturing schedules or if the failure is due to prudent and reasonable restriction on extension of credit by the supplier to the equipment dealer, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo, or other cause over which the supplier has no control;

(4) Terminate, cancel, or fail to renew the dealer agreement of any equipment dealer or substantially change the equipment dealer's competitive circumstances, attempt to terminate or cancel, or threaten to not renew the dealer agreement or to substantially change the competitive circumstances without good cause;

(5) Condition the renewal, continuation, or extension of a dealer agreement on the equipment dealer's substantial renovation of the equipment dealer's place of business or on the construction, purchase, acquisition, or rental of a new place of business by the equipment dealer unless: The supplier has advised the equipment dealer in writing of its demand for such renovation, construction, purchase, acquisition, or rental within a reasonable time prior to the effective date of the proposed date of renewal or extensions, but in no case less than one year; the supplier demonstrates the need for such change in the place of business and the reasonableness of the demand with respect to marketing and servicing the supplier's product and any economic conditions existing at the time in the dealer's trade area; and the equipment dealer does not make a good faith effort to complete the construction or renovation plans within one year;

(6) Discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers in this state. This subsection does not prevent the use of differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered: PROVIDED, That nothing shall prevent a seller from offering a lower price in order to meet an equally low price of a competitor, or the services or facilities furnished by a competitor;

(7) Unreasonably withhold consent for an equipment dealer to change the capital structure of the equipment dealership or the means by which it is financed: PROVIDED, That the equipment dealer meets the reasonable capital requirements of the manufacturer;

(8) Prevent, by contract or otherwise, any equipment dealer or any officer, member, partner, or stockholder of any equipment dealer from selling or transferring any part of the interest in the equipment dealership of any of them to any other person or persons or party or parties. However, no equipment dealer, officer, partner, member, or stockholder shall have the right to sell, transfer, or assign the equipment dealership or power of management or control thereunder without the written consent of the supplier. Such consent shall not be unreasonably withheld if the person or persons or party or parties meets the reasonable financial, business experience, and character standards of the supplier;

(9) Require an equipment dealer to assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this chapter; or

(10)(a) Unreasonably withhold consent, in the event of the death of the equipment dealer or the principal owner of the equipment dealership, to the transfer of the equipment dealer's interest in the equipment dealership to a member or members of the family of the equipment dealer, the principal owner of the equipment dealership, or to another qualified individual if the family member or other qualified individual meets the reasonable financial, business experience, and character standards required by the supplier. Should a supplier determine that

the designated family member or other qualified individual does not meet those reasonable standards, it shall provide the equipment dealer with written notice of its objection and specific reasons for withholding its consent. A supplier shall have sixty days to consider an equipment dealer's request to make a transfer to a family member or other qualified individual. If the family member or other qualified individual reasonably satisfies the supplier's objections within sixty days, the supplier shall approve the transfer. As used in this section, "family" includes a spouse, parents, siblings, children, stepchildren, sons-in-law, daughters-in-law, and lineal descendants, including those by adoption, of the equipment dealer or principal owner of the equipment dealership. Nothing in this section shall entitle a family member or other qualified individual of a deceased dealer or principal owner of the equipment dealership to continue to operate the dealership without the consent of the supplier.

(b) If a supplier and equipment dealer have duly executed an agreement concerning succession rights prior to the equipment dealer's death and the agreement has not been revoked, the agreement shall be observed even if it designates someone other than the surviving spouse or heirs of the decedent as the successor. [1990 c 124 § 3.]

**19.98.130 Termination, cancellation, or nonrenewal of dealer agreement—Notice.** (1) Except where a grounds for termination or nonrenewal of a dealer agreement or a substantial change in an equipment dealer's competitive circumstances are contained in subsection (2) (a), (b), (c), (d), (e), or (f) of this section, a supplier shall give an equipment dealer ninety days' written notice of the supplier's intent to terminate, cancel, or not renew a dealer agreement or substantially change the equipment dealer's competitive circumstances. The notice shall state all reasons constituting good cause for termination, cancellation, or nonrenewal and shall provide, except for termination pursuant to subsection (2) (a), (b), (c), (d), or (e) of this section, that the equipment dealer has sixty days in which to cure any claimed deficiency. If the deficiency is rectified within sixty days, the notice shall be void. The contractual terms of the dealer agreement shall not expire or the equipment dealer's competitive circumstances shall not be substantially changed without the written consent of the equipment dealer prior to the expiration of at least ninety days following such notice.

(2) As used in RCW 19.98.100 through 19.98.150 and 19.98.911, a termination by a supplier of a dealer agreement shall be with good cause when the equipment dealer:

(a) Has transferred a controlling ownership interest in the equipment dealership without the supplier's consent;

(b) Has made a material misrepresentation to the supplier;

(c) Has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against the equipment dealer which has not been discharged within sixty days after the filing, is in default under the

provisions of a security agreement in effect with the supplier, or is insolvent or in receivership;

(d) Has been convicted of a crime, punishable for a term of imprisonment for one year or more;

(e) Has failed to operate in the normal course of business for ten consecutive business days or has terminated the business;

(f) Has relocated the equipment dealer's place of business without supplier's consent;

(g) Has consistently engaged in business practices that are detrimental to the consumer or supplier by way of excessive pricing, misleading advertising, or failure to provide service and replacement parts or perform warranty obligations;

(h) Has inadequately represented the supplier over a measured period causing lack of performance in sales, service, or warranty areas and failed to achieve market penetration at levels consistent with similarly situated equipment dealerships in the state based on available record information;

(i) Has consistently failed to meet building and housekeeping requirements or failed to provide adequate sales, service, or parts personnel commensurate with the dealer agreement;

(j) Has consistently failed to comply with the applicable licensing laws pertaining to the products and services being represented for and on supplier's behalf; or

(k) Has consistently failed to comply with the terms of the dealer agreement. [1990 c 124 § 4.]

#### 19.98.140 Actions against suppliers—Remedies.

Any equipment dealer may bring an action against a supplier in any court of competent jurisdiction for damages sustained by the equipment dealer as a consequence of the supplier's violation including requiring the supplier to repurchase at fair market value any data processing hardware and specialized repair tools and equipment previously purchased pursuant to requirements of the supplier, compensation for any loss of business, and the actual costs of the action, including reasonable attorneys' fees. The equipment dealer may also be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or substantial change in competitive circumstances. The remedies set forth in this action shall not be deemed exclusive and shall be in addition to any other remedies permitted by law. Nothing in this section is intended to prevent any court from awarding to the supplier actual costs of the action, including reasonable attorney's fees if the action is deemed frivolous. [1990 c 124 § 5.]

**19.98.150 Successors in interest.** The obligations of any supplier under this chapter are applied to any successor in interest or assignee of the supplier. A successor in interest includes any purchaser of assets or stock, any surviving corporation resulting from merger or liquidation, and any receiver or any trustee of the original supplier. [1990 c 124 § 6.]

**19.98.911 Severability—1990 c 124.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 124 § 7.]

**19.98.912 Effective date—Application—1990 c 124.** This act shall take effect July 1, 1990, and shall apply to all dealer agreements then in effect that have no expiration date and are a continuing agreement and to all other dealer agreements entered into or renewed on or after July 1, 1990. [1990 c 124 § 9.]

### Chapter 19.100

#### FRANCHISE INVESTMENT PROTECTION

##### Sections

19.100.010	Definitions.
19.100.020	Unlawful in certain instances to sell or offer to sell franchise if unregistered or not exempt.
19.100.030	Exemptions from registration requirements.
19.100.040	Application for registration—Contents—Filing.
19.100.070	Registration—Claim of exemption filing—Duration—Renewal—Supplemental report.
19.100.080	Delivery of offering circular and amendments required.
19.100.100	Advertisements—Copy to be filed.
19.100.140	Registration of franchise brokers required.
19.100.160	Application of chapter—Jurisdiction—Service of process—Consent.
19.100.170	Violations.
19.100.180	Relation between franchisor and franchisee—Rights and prohibitions.
19.100.184	Terms and conditions from negotiations initiated by franchisee.
19.100.220	Exceptions or exemptions—Burden of proof—Waivers of compliance void—Settlement release or waiver—Chapter as fundamental policy.
19.100.240	Fees.
19.100.252	Denial, suspension, or revocation of franchise broker by director.
19.100.255	Denial, suspension, or revocation of exemption by director.

**19.100.010 Definitions.** When used in this chapter, unless the context otherwise requires:

(1) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

(2) "Affiliate" means a person controlling, controlled by, or under common control with another person, every officer or director of such person, and every person occupying a similar status or performing similar functions.

(3) "Director" means the director of licensing.

(4) "Franchise" means:

(a) An agreement, express or implied, oral or written, by which:

(i) A person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate;

(ii) The operation of the business is substantially associated with a trademark, service mark, trade name,

advertising, or other commercial symbol designating, owned by, or licensed by the grantor or its affiliate; and

(iii) The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee.

(b) The following shall not be construed as a franchise within the meaning of this chapter:

(i) The payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring such credit card or any transaction relating to a bank credit card plan;

(ii) Actions or transactions otherwise permitted, prohibited or regulated under laws administered by the insurance commissioner of this state;

(iii) Any motor vehicle dealer franchise subject to the provisions of chapter 46.70 RCW.

(5) "Marketing plan" means a plan or system concerning an aspect of conducting business. A marketing plan may include one or more of the following:

(a) Price specifications, special pricing systems or discount plans;

(b) Sales or display equipment or merchandising devices;

(c) Sales techniques;

(d) Promotional or advertising materials or cooperative advertising;

(e) Training regarding the promotion, operation, or management of the business; or

(f) Operational, managerial, technical, or financial guidelines or assistance.

(6) "Bank credit card plan" means a credit card plan in which the issuer of credit cards is a national bank, state bank, trust company or any other banking institution subject to the supervision of the supervisor of banking of this state or any parent or subsidiary of such bank.

(7) "Franchisee" means a person to whom a franchise is offered or granted.

(8) "Franchisor" means a person who grants a franchise to another person.

(9) "Subfranchise" means an agreement, express or implied, oral or written, by which a person pays or agrees to pay, directly or indirectly, a franchisor or affiliate for the right to grant, sell or negotiate the sale of a franchise.

(10) "Subfranchisor" means a person to whom a subfranchise is granted.

(11) "Franchise broker" means a person who directly or indirectly engages in the business of the offer or sale of franchises. The term does not include a franchisor, subfranchisor, or their officers, directors, or employees.

(12) "Franchise fee" means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business or to continue a business under a franchise agreement, including, but not limited to, the payment either in lump sum or by installments of an initial capital investment fee, any fee or charges based upon a percentage of gross or net sales whether or not referred to as royalty fees, any payment for the mandatory purchase of goods or services or any payment for goods or services available only from the franchisor, or any training fees or training school fees or

charges; however, the following shall not be considered payment of a franchise fee: (a) the purchase or agreement to purchase goods at a bona fide wholesale price; (b) the purchase or agreement to purchase goods by consignment; if, and only if the proceeds remitted by the franchisee from any such sale shall reflect only the bona fide wholesale price of such goods; (c) a bona fide loan to the franchisee from the franchisor; (d) the purchase or agreement to purchase goods at a bona fide retail price subject to a bona fide commission or compensation plan that in substance reflects only a bona fide wholesale transaction; (e) the purchase or lease or agreement to purchase or lease supplies or fixtures necessary to enter into the business or to continue the business under the franchise agreement at their fair market or rental value; (f) the purchase or lease or agreement to purchase or lease real property necessary to enter into the business or to continue the business under the franchise agreement at the fair market or rental value; (g) amounts paid for trading stamps redeemable in cash only; (h) amounts paid for trading stamps to be used as incentives only and not to be used in, with, or for the sale of any goods.

(13) "Person" means a natural person, corporation, partnership, trust, or other entity and in the case of an entity, it shall include any other entity which has a majority interest in such an entity or effectively controls such other entity as well as the individual officers, directors, and other persons in act of control of the activities of each such entity.

(14) "Publish" means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

(15) "Sale or sell" includes every contract of sale, contract to sell, or disposition of a franchise.

(16) "Offer or offer to sell" includes every attempt or offer to dispose of or solicitation of an offer to buy a franchise or an interest in a franchise. [1991 c 226 § 1; 1979 c 158 § 83; 1973 1st ex.s. c 33 § 3; 1972 ex.s. c 116 § 1; 1971 ex.s. c 252 § 1.]

**Emergency—Effective date—1972 ex.s. c 116:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on May 1, 1972." [1972 ex.s. c 116 § 17.]

**19.100.020 Unlawful in certain instances to sell or offer to sell franchise if unregistered or not exempt.** (1) It is unlawful for any franchisor or subfranchisor to sell or offer to sell any franchise in this state unless the offer of the franchise has been registered under this chapter or exempted under RCW 19.100.030.

(2) For the purpose of this section, an offer to sell a franchise is made in this state when: (a) The offer is directed by the offeror into this state from within or outside this state and is received where it is directed, (b) the offer originates from this state and violates the franchise or business opportunity law of the state or foreign jurisdiction into which it is directed, (c) the offeree is a resident of this state, or (d) the franchise business that is the subject of the offer is to be located or operated, wholly or partly, in this state.

(3) For the purpose of this section, a sale of any franchise is made in this state when: (a) An offer to sell is accepted in this state, (b) an offer originating from this state is accepted and violates the franchise or business opportunity law of the state or foreign jurisdiction in which it is accepted, (c) the purchaser of the franchise is a resident of this state, or (d) the franchise business that is the subject of the sale is to be located or operated, wholly or partly, in this state.

(4) For the purpose of this section, an offer to sell is not made in this state solely because the offer appears: (a) In a newspaper or other publication of general and regular circulation if the publication has had more than two-thirds of its circulation outside this state during the twelve months before the offer is published, or (b) in a broadcast or transmission originating outside this state. [1991 c 226 § 2; 1971 ex.s. c 252 § 2.]

**19.100.030 Exemptions from registration requirements.** The registration requirements of this chapter shall not apply to:

(1) The offer or sale or transfer of a franchise by a franchisee who is not an affiliate of the franchisor for the franchisee's own account if the franchisee's entire franchise is sold and the sale is not effected by or through the franchisor. A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove the sale or requires payment of a reasonable transfer fee. Such right to approve or disapprove the sale shall be exercised in a reasonable manner.

(2) The offer or sale of a franchise by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, conservator, or pursuant to a court-approved offer or sale, on behalf of a person other than the franchisor or the estate of the franchisor.

(3) The offer or sale of a franchise to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer or to a broker dealer where the purchaser is acting for itself or in some fiduciary capacity.

(4) The offer or sale of a franchise by a franchisor:

(a) Who has delivered in writing to each prospective franchisee, at least ten business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least ten business days prior to the receipt of any consideration, whichever occurs first, an offering circular complying with guidelines adopted by rule of the director. The director shall be guided in adopting such a rule by the guidelines for the preparation of the Uniform Franchise Offering Circular adopted by the North American Securities Administrators Association, Inc., or its successor, as such guidelines may be revised from time to time; and

(b) Who either:

(i) (A) Has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars or who has a net worth, according to its most recent audited financial statement,

of not less than one million dollars and is at least eighty percent owned by a corporation which has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars; and

(B) Has had at least twenty-five franchisees conducting business at all times during the five-year period immediately preceding the offer or sale or has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale or if any corporation which owns at least eighty percent of the franchisor, has had at least twenty-five franchisees conducting business at all times during the five-year period immediately preceding the offer or sale or such corporation has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; and

(C) Requires an initial investment by the franchisee of more than one hundred thousand dollars; and

(D) Files annually with the director a statement prescribed by rule of the director giving notice of such claim, and pays a filing fee as set forth in RCW 19.100.240; or

(ii) (A) Has no outstanding franchises granted for businesses located or to be located outside the state of Washington; and

(B) Has granted and grants no more than three franchises for franchise businesses to be situated within the state of Washington; and

(C) Does not publish an advertisement or engage in general solicitation for the franchise offering; and

(D) The buyer is represented or advised in the transaction by independent legal counsel or certified public accountant; or

(iii) Does not charge a franchise fee, as defined in RCW 19.100.010 (12), in excess of five hundred dollars; and

(c) Who has not been found by a court of competent jurisdiction to have been in violation of this chapter, chapter 19.86 RCW, or any of the various federal statutes dealing with the same or similar matters, within seven years of any sale or offer to sell franchise business under franchise agreement in the state of Washington.

(5) The offer or sale of a franchise to an accredited investor, as defined by rule adopted by the director. The director shall be guided in adopting such a rule by the rules defining accredited investor promulgated by the federal securities and exchange commission.

(6) The offer or sale of an additional franchise to an existing franchisee of the franchisor for the franchisee's own account that is substantially the same as the franchise that the franchisee has operated for at least two years at the time of the offer or sale, provided the prior sale to the franchisee was pursuant to a franchise offering that was registered in the state of Washington. [1991 c 226 § 3; 1972 ex.s. c 116 § 2; 1971 ex.s. c 252 § 3.]

**19.100.040 Application for registration—Contents—Filing.** (1) The application for registration of the offer, signed by the franchisor, subfranchisor, or by

any person on whose behalf the offering is to be made, must be filed with the director and shall contain:

(a) A copy of the franchisor's or subfranchisor's offering circular which shall be prepared in compliance with guidelines adopted by rule of the director. The director shall be guided in adopting such rule by the guidelines for the preparation of the Uniform Franchise Offering Circular adopted by the North American Securities Administrators Association, Inc., or its successor, as such guidelines may be revised from time to time;

(b) A copy of all agreements to be proposed to franchisees;

(c) A consent to service of process as required by RCW 19.100.160;

(d) The application for registration of a franchise broker, if any;

(e) The applicable filing fee; and

(f) Such other information as the director determines, by rule or order, to be necessary or appropriate to facilitate the administration of this chapter.

(2) The director may require the filing of financial statements of the franchisor or subfranchisor audited by an independent certified public accountant and prepared in accordance with generally accepted accounting principles.

When the person filing the application for registration is a subfranchisor, the application shall also include the same information concerning the subfranchisor as is required from the franchisor pursuant to this section. [1991 c 226 § 4; 1972 ex.s. c 116 § 3; 1971 ex.s. c 252 § 4.]

**19.100.070 Registration—Claim of exemption filing—Duration—Renewal—Supplemental report.**

(1) A franchise offering shall be deemed duly registered, and a claim of exemption under RCW 19.100.030(4)(b)(i) shall be duly filed, for a period of one year from the effective date of registration or filing unless the director by rule or order specifies a different period.

(2) Registration of a franchise offer may be renewed for additional periods of one year each, unless the director by rule or order specifies a different period, by filing with the director no later than fifteen business days prior to the expiration thereof a renewal application containing such information as the director may require to indicate any substantial changes in the information contained in the original application or the previous renewal application and payment of the prescribed fee.

(3) If a material adverse change in the condition of the franchisor or the subfranchisor or any material change in the information contained in its offering circular should occur the franchisor or subfranchisor shall so amend the registration on file with the director as soon as reasonably possible and in any case, before the further sale of any franchise. [1991 c 226 § 5; 1972 ex.s. c 116 § 5; 1971 ex.s. c 252 § 7.]

**19.100.080 Delivery of offering circular and amendments required.** It is unlawful for any person to sell a

franchise that is registered or required to be registered under this chapter without first delivering to the offeree, at least ten business days prior to the execution by the offeree of any binding franchise or other agreement, or at least ten business days prior to the receipt of any consideration, whichever occurs first, a copy of the offering circular required under RCW 19.100.040, with any addition or amendment to the offering circular required by RCW 19.100.070, together with a copy of the proposed agreements relating to the sale of the franchise. [1991 c 226 § 6; 1972 ex.s. c 116 § 6; 1971 ex.s. c 252 § 8.]

**19.100.100 Advertisements—Copy to be filed.** No person shall publish in this state any advertisements offering a franchise subject to the registration requirements of this law unless a true copy of the advertisement has been filed in the office of the director at least seven days prior to the publication or such shorter period as the director by rule or order may allow. [1991 c 226 § 7; 1971 ex.s. c 252 § 10.]

**19.100.140 Registration of franchise brokers required.** (1) It is unlawful for any franchise broker to offer to sell or sell a franchise in this state unless the franchise broker is registered under this chapter. It is unlawful for any franchisor, subfranchisor, or franchisee to employ a franchise broker unless the franchise broker is registered.

(2) The franchise broker shall apply for registration by filing with the director an application together with a consent to service of process in such form as the director shall prescribe and payment of the fee prescribed in RCW 19.100.240.

(3) The application shall contain whatever information the director requires concerning such matters as:

(a) The applicant's form and place of organization.

(b) The applicant's proposed method of doing business.

(c) The qualifications and business history of the applicant.

(d) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

(e) The applicant's financial condition and history. [1991 c 226 § 8; 1972 ex.s. c 116 § 9; 1971 ex.s. c 252 § 14.]

**19.100.160 Application of chapter—Jurisdiction—Service of process—Consent.**

Any person who is engaged or hereafter engaged directly or indirectly in the sale or offer to sell a franchise or a subfranchise or in business dealings concerning a franchise, either in person or in any other form of communication, shall be subject to the provisions of this chapter, shall be amenable to the jurisdiction of the courts of this state and shall be amenable to the service of process under RCW 4.28-.180, 4.28.185 and 19.86.160. Every applicant for registration of a franchise under this law (by other than a Washington corporation) shall file with the director in

such form as he by rule prescribed, an irrevocable consent appointing the director or his successor in office to be his attorney, to receive service or any lawful process in any noncriminal suit, action, or proceeding against him or his successors, executor, or administrator which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing consent. A person who has filed such a consent in connection with a previous registration under this law need not file another. Service may be made by leaving a copy of the process in the office of the director but it is not as effective unless:

(1) The plaintiff, who may be the director, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the director; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further times the court allows. [1991 c 226 § 9; 1971 ex.s. c 252 § 16.]

**19.100.170 Violations.** It is unlawful for any person in connection with the offer, sale, or purchase of any franchise or subfranchise in this state directly or indirectly:

(1) To make any untrue statement of a material fact in any application, notice, or report filed with the director under this law or willfully to omit to state in any application, notice or report, any material fact which is required to be stated therein or fails to notify the director of any material change as required by RCW 19.100.070(3).

(2) To sell or offer to sell by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading.

(3) To employ any device, scheme, or artifice to defraud.

(4) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(5) To violate any order of the director. [1991 c 226 § 10; 1971 ex.s. c 252 § 17.]

**19.100.180 Relation between franchisor and franchisee—Rights and prohibitions.** Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(1) The parties shall deal with each other in good faith.

(2) For the purposes of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and a violation of this chapter for any person to:

(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is: (i) Reasonable, (ii) based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time, or is based on other proper and justifiable distinctions considering the purposes of this chapter, and (iii) is not arbitrary. However, nothing in (c) of this subsection precludes negotiation of the terms and conditions of a franchise at the initiative of the franchisees.

(d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.

(e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.

(f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.

(g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter, except as otherwise permitted by RCW 19.100.220.

(h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.

(i) Refuse to renew a franchise without fairly compensating the franchisee for the fair market value, at the time of expiration of the franchise, of the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor, and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchise business: PROVIDED, That compensation

need not be made to a franchisee for good will if (i) the franchisee has been given one year's notice of nonrenewal and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor.

(j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, That after three willful and material breaches of the same term of the franchise agreement occurring within a twelve-month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the agreement upon any subsequent willful and material breach of the same term within the twelve-month period without providing notice or opportunity to cure: PROVIDED FURTHER, That a franchisor may terminate a franchise without giving prior notice or opportunity to cure a default if the franchisee: (i) Is adjudicated a bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchise business; (iii) voluntarily abandons the franchise business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchise business. Upon termination for good cause, the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchise business; and (iii), if the franchisee is to retain control of the premises of the franchise business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor. [1991 c 226 § 11; 1980 c 63 § 1; 1973 1st ex.s. c 33 § 4; 1972 ex.s. c 116 § 10; 1971 ex.s. c 252 § 18.]

**19.100.184 Terms and conditions from negotiations initiated by franchisee.** This chapter does not preclude negotiation of the terms and conditions of a franchise at the initiative of the franchisee, provided that such negotiated terms and conditions do not violate any provision of this chapter. After the initial offer to a franchisee using the offering circular required by RCW 19.100.030, 19.100.040, or 19.100.070 a franchisor need not provide

an amended offering circular to that franchisee by reason of a change in the terms and conditions of a franchise being negotiated at the initiative of that franchisee or amend the registration by reason of such change. [1991 c 226 § 12.]

**19.100.220 Exceptions or exemptions—Burden of proof—Waivers of compliance void—Settlement release or waiver—Chapter as fundamental policy.** (1) In any proceeding under this chapter, the burden of proving an exception from a definition or an exemption from registration is upon the person claiming it.

(2) Any agreement, condition, stipulation or provision, including a choice of law provision, purporting to bind any person to waive compliance with any provision of this chapter or any rule or order hereunder is void. A release or waiver executed by any person pursuant to a negotiated settlement in connection with a bona fide dispute between a franchisee and a franchisor, arising after their franchise agreement has taken effect, in which the person giving the release or waiver is represented by independent legal counsel, is not an agreement prohibited by this subsection.

(3) This chapter represents a fundamental policy of the state of Washington. [1991 c 226 § 13; 1972 ex.s. c 116 § 14; 1971 ex.s. c 252 § 22.]

**19.100.240 Fees.** The director shall charge and collect fees fixed by this section. All fees collected under this chapter shall be deposited in the state treasury and shall not be refundable except as herein provided:

(1) The fee for filing an application for registration on the sale of franchise under RCW 19.100.040 is six hundred dollars;

(2) The fee for filing an application for renewal of a registration under RCW 19.100.070 is one hundred dollars;

(3) The fee for filing an amendment to the application filed under RCW 19.100.040 is one hundred dollars;

(4) The fee for registration of a franchise broker shall be fifty dollars for original registration and twenty-five dollars for each annual renewal;

(5) The fee for filing a notice of claim of exemption is one hundred dollars for the original filing and one hundred dollars for each annual renewal. [1991 c 226 § 14; 1971 ex.s. c 252 § 24.]

**19.100.252 Denial, suspension, or revocation of franchise broker by director.** The director may by order deny, suspend, or revoke registration of any franchise broker if the director finds that the order is in the public interest and that the applicant or registrant, or any partner, officer, or director of the applicant or registrant:

(1) Has filed an application for registration as a franchise broker under RCW 19.100.140 which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was

made, false or misleading with respect to any material fact;

(2) Has willfully violated or willfully failed to comply with any provision of this chapter;

(3) Has been convicted, within the past five years of any misdemeanor involving a franchise, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any aspect of the franchise industry;

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a franchise broker;

(6) Has engaged in dishonest or unethical practices in the franchise industry;

(7) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature.

The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. [1991 c 226 § 16.]

**19.100.255 Denial, suspension, or revocation of exemption by director.** The director may by order deny, suspend, or revoke any exemption from registration otherwise available under RCW 19.100.030 for the offer or sale of the franchise if he or she finds that the order is in the public interest and that:

(1) Any provision of this chapter or any rule or order or condition lawfully imposed under this chapter has been violated or is about to be violated in connection with the offering by the franchisor, any partner, officer, or director of a franchisor, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlled by the franchisor, or any franchise broker offering or selling the offering;

(2) The franchise offering is the subject of a permanent or temporary injunction of a court of competent jurisdiction entered under any federal or state act applicable to the offering; but (a) the director may not enter an order of revocation or suspension under this subsection more than one year from the date of the injunction relied on, and (b) the director may not enter an order under this subsection on the basis of an injunction unless that injunction was based on facts that currently constitute a ground for an order under this section;

(3) The franchisor's enterprise or method of business includes or would include activities which are illegal where performed;

(4) The offering has worked or tended to work or would tend to work a fraud on purchasers;

(5) The franchisor has failed to pay the required filing fee for a claim of exemption but the director may enter only a denial order under this subsection and shall vacate such order when the deficiency has been corrected;

(6) The franchisor has made a claim of exemption which is incomplete in a material respect or contains any statement which in the light of the circumstances under which it was made is false or misleading with respect to any material fact. [1991 c 226 § 17.]

## Chapter 19.105 CAMPING RESORTS

### Sections

19.105.365 Advertising promises of free gifts, awards, or prizes—Provision of gift or substitute—Security arrangements after violation—Advance fees placed in trust—Membership referral programs considered promotional programs.

**19.105.365 Advertising promises of free gifts, awards, or prizes—Provision of gift or substitute—Security arrangements after violation—Advance fees placed in trust—Membership referral programs considered promotional programs.** (1) It is unlawful for a camping resort operator or other person, in connection with an advertisement or offer for sale of a camping resort contract in this state, to promise or offer a free gift, award, prize, or other item of value if the operator or person knows or has reason to know that the offered item is unavailable in a sufficient quantity based upon the reasonably anticipated response to the advertisement or offer.

(2) A person who responds to an advertisement or offer in the manner specified, who performs all stated requirements, and who meets the qualifications disclosed shall receive the offered item subject to chapter 19.170 RCW.

(3) The director may, upon making a determination that a violation of subsection (1) or (2) of this section has occurred, require any person, including an operator or other registrant found in violation, who continues, or proposes to continue, offering a free gift, award, prize, or other item of value in this state for purposes of advertising a camping resort or inducing persons to purchase a camping resort contract, to provide evidence of the ability to deliver on promised gifts, prizes, or awards by means such as bonds, irrevocable letters of credit, cash deposits, or other security arrangements acceptable to the director.

(4) The director may require that any fees or funds of any description collected in advance from persons for purposes of obtaining promised gifts, awards, prizes, or other items of value, be placed in trust in a depository in this state until after delivery of the promised gift, prize, award, or other item of value.

(5) Operators or other registrants or persons promising gifts, prizes, awards, or other items of consideration as part of a membership referral program shall be considered to be offering or selling promotional programs.

(6) Chapter 19.170 RCW applies to free gifts, awards, or prizes regulated under this chapter. [1991 c 227 § 9; 1988 c 159 § 12.]

Severability—1991 c 227: See RCW 19.170.900.

## Chapter 19.112 MOTOR FUEL QUALITY ACT

### Sections

19.112.005 Purpose.  
19.112.010 Definitions.

19.112.020	Administration of chapter—Standards—Testing laboratory.
19.112.030	Director's authority.
19.112.040	Motor fuel registration.
19.112.050	Unlawful acts.
19.112.060	Penalties.
19.112.070	Injunctive relief.
19.112.080	Chapter in addition to chapter 19.94 RCW.
19.112.090	Air pollution reduction—Variances from ASTM.
19.112.900	Short title.
19.112.901	Severability—1990 c 102.
19.112.902	Effective date—1990 c 102.

**19.112.005 Purpose.** It is desired that there should be uniformity among the requirements of the several states. This chapter provides for the establishment of quality specifications for all liquid motor fuels, except aviation fuel, marine fuel, and liquefied petroleum gases, and establishes a sampling, testing, and enforcement program. [1990 c 102 § 1.]

**19.112.010 Definitions.** As used in this chapter:

(1) "Motor fuel" means any liquid product used for the generation of power in an internal combustion engine used for the propulsion of a motor vehicle upon the highways of this state. Motor fuels containing ethanol may be marketed if either (a) the base motor fuel meets the applicable standards before the addition of the ethanol or (b) the resultant blend meets the applicable standards after the addition of the ethanol.

(2) "Director" means the director of agriculture. [1991 c 145 § 1; 1990 c 102 § 2.]

**19.112.020 Administration of chapter—Standards—Testing laboratory.** This chapter shall be administered by the director or his or her authorized agent. For the purpose of administering this chapter, the standards set forth in the Annual Book of ASTM Standards and supplements thereto, and revisions thereof, are adopted, together with applicable federal environmental protection agency standards. If a conflict exists between federal environmental protection agency standards, ASTM standards, or state standards, for purposes of uniformity, federal environmental protection agency standards shall take precedence over ASTM standards. Any state standards adopted must be consistent with federal environmental protection agency standards and ASTM standards not in conflict with federal environmental protection agency standards.

The director may establish a testing laboratory. The director may also adopt rules on false and misleading advertising, labeling and posting of prices, and the standards for, and identity of, motor fuels. [1990 c 102 § 3.]

**19.112.030 Director's authority.** The director may:

(1) Enforce and administer this chapter by inspections, analyses, and other appropriate actions;

(2) Have access during normal business hours to all places where motor fuels are marketed for the purpose of examination, inspection, taking of samples, and investigation. If access is refused by the owner or agent or other persons leasing the same, the director or his or her agent may obtain an administrative search warrant from a court of competent jurisdiction;

(3) Collect or cause to be collected, samples of motor fuels marketed in this state, and cause such samples to be tested or analyzed for compliance with this chapter;

(4) Issue a stop-sale order for any motor fuel found not to be in compliance and rescind the stop-sale order if the motor fuel is brought into compliance with this chapter;

(5) Refuse, revoke, or suspend the registration of a motor fuel;

(6) Delegate to authorized agents any of the responsibilities for the proper administration of this chapter;

(7) Establish a motor fuel testing laboratory. [1990 c 102 § 4.]

**19.112.040 Motor fuel registration.** All motor fuel shall be registered by the name, brand, or trademark under which it will be sold at the terminal. Registration shall include:

(1) The name and address of the person registering the motor fuel;

(2) The antiknock index or cetane number, as appropriate, at which the motor fuel is to be marketed;

(3) A certification, declaration, or affidavit that each individual grade or type of motor fuel shall conform to this chapter. [1990 c 102 § 5.]

**19.112.050 Unlawful acts.** It is unlawful to:

(1) Market motor fuels in any manner that may deceive or tend to deceive the purchaser as to the nature, price, quantity, and quality of a motor fuel;

(2) Fail to register a motor fuel;

(3) Submit incorrect, misleading, or false information regarding the registration of a motor fuel;

(4) Hinder or obstruct the director, or his or her authorized agent, in the performance of his or her duties;

(5) Market a motor fuel that is contrary to this chapter. [1990 c 102 § 6.]

**19.112.060 Penalties.** Any person who knowingly violates any provision of this chapter or rules adopted under it is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. The director shall assess a civil penalty ranging from one hundred dollars to ten thousand dollars per occurrence, giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation, and the history of previous violations. Civil penalties collected under this chapter shall be deposited into the motor vehicle fund. [1990 c 102 § 7.]

**19.112.070 Injunctive relief.** The director may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter. [1990 c 102 § 8.]

**19.112.080 Chapter in addition to chapter 19.94 RCW.** This chapter is in addition to any requirements under chapter 19.94 RCW. [1990 c 102 § 9.]

**19.112.090 Air pollution reduction—Variances from ASTM.** The directors of the departments of ecology and agriculture may grant a variance from ASTM motor fuel specifications if necessary to produce lower emission motor fuels. [1991 c 199 § 231.]

**Finding—1991 c 199:** See note following RCW 70.94.011.

**Effective dates—Severability—Captions not law—1991 c 199:** See RCW 70.94.904 through 70.94.906.

**19.112.900 Short title.** RCW 19.112.005 through 19.112.080 shall constitute a new chapter in Title 19 RCW and may be cited as the motor fuel quality act. [1990 c 102 § 11.]

**19.112.901 Severability—1990 c 102.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 102 § 10.]

**19.112.902 Effective date—1990 c 102.** This act shall take effect on July 1, 1990. [1990 c 102 § 12.]

### Chapter 19.114

#### USED AUTOMOTIVE OIL RECYCLING

##### Sections

19.114.010	Repealed.
19.114.020	Repealed.
19.114.030	Repealed.
19.114.040	Recodified as RCW 70.951.080.
19.114.900	Repealed.

**19.114.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.114.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.114.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.114.040 Recodified as RCW 70.951.080.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**19.114.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 19.116

#### MOTOR VEHICLE SUBLEASING OR TRANSFER

##### Sections

19.116.005	Finding.
19.116.010	Public interest—Finding.
19.116.020	Definitions.
19.116.030	Application of consumer protection act.
19.116.040	Violations of chapter.

19.116.050	Unlawful transfer of motor vehicle—Conditions.
19.116.060	Unlawful subleasing of motor vehicle—Conditions.
19.116.070	Nonparties assisting, causing, or arranging unlawful assignment or transfer.
19.116.080	Unlawful subleasing or transfer—Class C felony.
19.116.090	Violations—Criminal profiteering.
19.116.100	Persons who may bring action—Damages.
19.116.110	Transfer or assignment of interest by persons with motor vehicles under lease contract or security agreement not subject to prosecution—Enforceability of contract or agreement not affected.
19.116.120	Penalties in addition to other remedies or penalties.
19.116.900	Severability—1990 c 44.

**19.116.005 Finding.** The legislature finds that the practices of unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles have a substantial negative impact on the state's financial institutions and other businesses engaged in the financing and leasing of motor vehicles. [1990 c 44 § 1.]

**19.116.010 Public interest—Finding.** The legislature finds that the practice of unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1990 c 44 § 2.]

**19.116.020 Definitions.** The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise:

(1) "Debtor" has the meaning set forth in RCW 62A.9-105(1)(d).

(2) "Motor vehicle" means a vehicle required to be registered under chapter 46.16 RCW.

(3) "Person" means an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(4) "Security agreement" has the meaning set forth in RCW 62A.9-105(1)(1).

(5) "Security interest" has the meaning set forth in RCW 62A.1-201(37).

(6) "Secured party" has the meaning set forth in RCW 62A.9-105(1)(m). [1990 c 44 § 3.]

**19.116.030 Application of consumer protection act.** Unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles are [is] not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1990 c 44 § 4.]

**19.116.040 Violations of chapter.** (1) It is a violation of this chapter for a vehicle dealer, as defined in RCW 46.70.011(3), to engage in the unlawful transfer of an ownership interest in motor vehicles.

(2) It is a violation of this chapter for a person to engage in the unlawful subleasing of motor vehicles. [1990 c 44 § 5.]

**19.116.050 Unlawful transfer of motor vehicle—Conditions.** A dealer engages in an act of unlawful

transfer of ownership interest in motor vehicles when all of the following circumstances are met:

(1) The dealer does not pay off any balance due to the secured party on a vehicle acquired by the dealer, no later than the close of the second business day after the acquisition date of the vehicle; and

(2) The dealer does not obtain a certificate of ownership under RCW 46.12.140 for each used vehicle kept in his or her possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory; and

(3) The dealer does not transfer the certificate of ownership after the transferee has taken possession of the motor vehicle. [1990 c 44 § 6.]

**19.116.060 Unlawful subleasing of motor vehicle—Conditions.** A person engages in an act of unlawful subleasing of a motor vehicle if all of the following conditions are met:

(1) The motor vehicle is subject to a lease contract or security agreement the terms of which prohibit the transfer or assignment of any right or interest in the motor vehicle or under the lease contract or security agreement; and

(2) The person is not a party to the lease contract or security agreement; and

(3) The person transfers or assigns or purports to transfer or assign any right or interest in the motor vehicle or under the lease contract or security agreement to any person who is not a party to the lease contract or security agreement; and

(4) The person does not obtain, before the transfer or assignment described in subsection (3) of this section, written consent to the transfer or assignment from the motor vehicle lessor in connection with a lease contract or from the secured party in connection with a security agreement; and

(5) The person receives compensation or some other consideration for the transfer or assignment described in subsection (3) of this section. [1990 c 44 § 7.]

**19.116.070 Nonparties assisting, causing, or arranging unlawful assignment or transfer.** (1) A person engages in an act of unlawful subleasing of a motor vehicle when the person is not a party to the lease contract or security agreement, and assists, causes, or arranges an actual or purported assignment as described in RCW 19.116.060.

(2) A dealer engages in an act of unlawful transfer of an ownership interest in a motor vehicle when the dealer is not a party to the security agreement, and assists, causes, or arranges an actual or purported transfer as described in RCW 19.116.050. [1990 c 44 § 8.]

**19.116.080 Unlawful subleasing or transfer—Class C felony.** Unlawful subleasing or unlawful transfer of an ownership interest in a motor vehicle is a class C felony punishable under chapter 9A.20 RCW. [1990 c 44 § 9.]

**19.116.090 Violations—Criminal profiteering.** A violation of this chapter constitutes an act of criminal

profiteering, as defined in RCW 9A.82.010. [1990 c 44 § 10.]

**19.116.100 Persons who may bring action—Damages.** (1) Any one or more of the following persons who suffers damage proximately resulting from one or more acts of unlawful motor vehicle subleasing or unlawful transfer of an ownership interest in a motor vehicle may bring an action against the person who has engaged in those acts:

(a) A secured party;

(b) A debtor;

(c) A lessor;

(d) A lessee;

(e) An actual or purported transferee or assignee;

(f) A guarantor of a lease or security agreement or a guarantor of a purported transferee or assignee.

(2) In an action for unlawful subleasing or unlawful transfer of an ownership interest in a motor vehicle the court may award actual damages; equitable relief, including, but not limited to an injunction and restitution of money and property; reasonable attorneys' fees and costs; and any other relief that the court deems proper. [1990 c 44 § 11.]

**19.116.110 Transfer or assignment of interest by persons with motor vehicles under lease contract or security agreement not subject to prosecution—Enforceability of contract or agreement not affected.** (1) The actual or purported transfer or assignment, or the assisting, causing, or arranging of an actual or purported transfer or assignment, of any right or interest in a motor vehicle or under a lease contract or security agreement, by an individual who is a party to the lease contract or security agreement is not an act of unlawful subleasing of or unlawful transfer of an ownership interest in a motor vehicle and is not subject to prosecution.

(2) This chapter does not affect the enforceability of any provision of a lease contract or security agreement by a party thereto. [1990 c 44 § 12.]

**19.116.120 Penalties in addition to other remedies or penalties.** The penalties under this chapter are in addition to any other remedies or penalties provided by law for the conduct proscribed by this chapter. [1990 c 44 § 13.]

**19.116.900 Severability—1990 c 44.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 44 § 15.]

## Chapter 19.118

### MOTOR VEHICLE WARRANTIES

#### Sections

19.118.021 Definitions.  
19.118.901 Repealed.

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

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales or lease related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers. "Manufacturer" does not include any person engaged in the business of set-up of motorcycles as an agent of a new motor vehicle dealer if the person does not otherwise construct or assemble motorcycles.

(8) "Motorcycle" means any motorcycle as defined in RCW 46.04.330 which has an engine displacement of at least seven hundred fifty cubic centimeters.

(9) "New motor vehicle" means any new self-propelled vehicle, including a new motorcycle, primarily designed for the transportation of persons or property over the public highways that, after original retail purchase or lease in this state, was initially registered in this state or for which a temporary motor vehicle license was issued pursuant to RCW 46.16.460, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include

trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

(10) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed as a dealer by the state of Washington.

(11) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

(12) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract, including any allowance for a trade-in vehicle; "purchase price" in the instance of a lease means the purchase price or value of the vehicle declared to the department of licensing for purposes of tax collection.

Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects repurchase of the motor vehicle, "purchase price" means the purchase price of the second or subsequent purchase or lease. Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects replacement of the motor vehicle, "purchase price" means the original purchase price.

(13) "Reasonable offset for use" means the definition provided in RCW 19.118.041(1)(c) for a new motor vehicle other than a new motorcycle. The reasonable offset for use for a new motorcycle shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by twenty-five thousand.

(14) "Reasonable number of attempts" means the definition provided in RCW 19.118.041.

(15) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

(16) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(17) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

(18) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in

connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

(19) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first. [1990 c 239 § 1; 1989 c 347 § 1; 1987 c 344 § 2.]

**19.118.901 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 19.142

### HEALTH STUDIO SERVICES

#### Sections

19.142.010	Definitions.
19.142.040	Contents of contract.
19.142.050	Notice of cancellation—Refund.

**19.142.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Business day" means any day except a Sunday or a legal holiday.

(2) "Buyer" or "member" means a person who purchases health studio services.

(3) "Health studio" includes any person or entity engaged in the sale of instruction, training, assistance or use of facilities which purport to assist patrons to improve their physical condition or appearance through physical exercise, body building, weight loss, figure development, the martial arts, or any other similar activity. For the purposes of this chapter, "health studio" does not include: (a) Public common schools, private schools approved under RCW 28A.195.010, and public or private institutions of higher education; (b) persons providing professional services within the scope of a person's license under Title 18 RCW; (c) bona fide nonprofit organizations which have been granted tax-exempt status by the Internal Revenue Service, the functions of which as health studios are only incidental to their overall functions and purposes; (d) a person or entity which offers physical exercise, body building, figure development or similar activities as incidental features of a plan of instruction or assistance relating to diet or control of eating habits; (e) bona fide nonprofit corporations organized under chapter 24.03 RCW which have members and whose members have meaningful voting rights to elect and remove a board of directors which is responsible for the operation of the health club and corporation; and (f) a preexisting facility primarily offering aerobic classes, where the initiation fee is less than fifty dollars and no memberships are sold which exceed one year in duration. For purposes of this subsection, "preexisting

facility" means an existing building used for health studio services covered by the fees collected.

(4) "Health studio services" means instruction, services, privileges, or rights offered for sale by a health studio. "Health studio services" do not include: (a) Instruction or assistance relating to diet or control of eating habits not involving substantial on-site physical exercise, body building, figure development, or any other similar activity; or (b) recreational or social programs which either involve no physical exercise or exercise only incidental to the program.

(5) "Initiation or membership fee" means a fee paid either in a lump sum or in installments within twelve months of execution of the health studio services contract on a one-time basis when a person first joins a health studio for the privilege of belonging to the health studio.

(6) "Special offer or discount" means any offer of health studio services at a reduced price or without charge to a prospective member.

(7) "Use fees or dues" means fees paid on a regular periodic basis for use of a health studio. This does not preclude prepayment of use fees at the buyer's option. [1990 c 55 § 1; 1990 c 33 § 556; 1987 c 317 § 2.]

**Reviser's note:** This section was amended by 1990 c 33 § 556 and by 1990 c 55 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**19.142.040 Contents of contract.** A contract for health studio services shall include all of the following:

(1) The name and address of the health studio facilities operator;

(2) The date the buyer signed the contract;

(3) A description of the health studio services and general equipment to be provided, or acknowledgement in a conspicuous form that the buyer has received a written description of the health studio services and equipment to be provided. If any of the health studio services or equipment are to be delivered at a planned facility, at a facility under construction, or through substantial improvements to an existing facility, the description shall include a date for completion of the facility, construction, or improvement. Health studio services must begin within twelve months from the date the contract is signed unless the completion of the facility, construction, or improvement is delayed due to war, or fire, flood, or other natural disaster;

(4) A statement of the duration of the contract. No contract for health studio services may require payments or financing by the buyer over a period in excess of thirty-six months from the date of the contract, nor may any contract term be measured by or be for the life of the buyer;

(5) The use fees or dues to be paid by the buyer and if such fees are subject to periodic adjustment. Use fees or dues may not be raised more than once in any calendar year;

(6) A complete statement of the rules of the health studio or an acknowledgement in a conspicuous form that the buyer has received a copy of the rules;

(7) Clauses which notify the buyer of the right to cancel:

(a) If the buyer dies or becomes totally disabled. The contract may require that the disability be confirmed by an examination of a physician agreeable to the buyer and the health studio;

(b) (i) Subject to (b)(ii) of this subsection, if the buyer moves his or her permanent residence to a location more than twenty-five miles from the health studio or an affiliated health studio offering the same or similar services and facilities at no additional expense to the buyer and the buyer cancels after one year from signing the contract if the contract extends for more than one year. The health studio may require reasonable evidence of relocation;

(ii) If at the time of signing the contract requiring payment of an initiation or membership fee the buyer lived more than twenty-five miles from the health studio, the buyer may cancel under (7)(b)(i) of this section only if the buyer moves an additional five miles or more from the health studio.

(c) If a contract extends for more than one year, the buyer may cancel the contract for any reason upon thirty days' written notice to the health studio;

(d) If the health studio facilities are permanently closed and comparable facilities owned and operated by the seller are not made available within a ten-mile radius of the closed facility;

(e) If a facility, construction, or improvement is not completed by the date represented by the contract;

(f) If the contract for health studio services was sold prior to the opening of the facility, the buyer may cancel within the first five business days the facility opens for use of the buyer and the health studio begins to provide the agreed upon health studio services;

(8) Clauses explaining the buyer's right to a refund and relief from future payment obligations after cancellation of the contract;

(9) A provision under a conspicuous caption in capital letters and boldface type stating substantially the following:

**"BUYER'S RIGHT TO CANCEL**

If you wish to cancel this contract without penalty, you may cancel it by delivering or mailing a written notice to the health studio. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The notice must be mailed to ----- (insert name and mailing address of health studio). If you cancel within the three days, the health studio will return to you within thirty days all amounts you have paid."

[1990 c 55 § 2; 1987 c 317 § 5.]

**19.142.050 Notice of cancellation—Refund.** After receipt of a written notice of cancellation, the health studio shall provide a refund to the buyer within thirty days. The health studio may require the buyer to return any membership card or other materials which evidence membership in the health studio. The buyer is entitled to a refund and relief from future obligations for payments of initiation or membership fees and use fees or dues as follows:

(1) The buyer is entitled to a refund of the unused portion of any prepaid use fees or dues and relief from future obligations to pay use fees or dues concerning use after the date of cancellation.

(2) (a) Subject to (b) of this subsection, if a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(a), the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee if the contract clearly states what percentage of the fee is nonrefundable or refundable.

(b) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(a) three years or more after the signing of the contract requiring payment of such fee, such fee is nonrefundable.

(3) If a contract includes an initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7) (b) or (c), the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee unless the following clause is contained in the contract and signed separately by the buyer. The clause shall be placed under a conspicuous caption in capital letters and bold face type stating the following:

**NONREFUNDABLE AMOUNT**

**I UNDERSTAND THAT I HAVE PAID OR AM OBLIGATED TO PAY ----- AS AN INITIATION OR MEMBERSHIP FEE, AND THAT UNDER NO CIRCUMSTANCES IS ANY PORTION OF THIS AMOUNT REFUNDABLE.**

-----  
(Buyer's Signature)

(4) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(d), the buyer is entitled to a pro rata refund of the fee.

(5) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7) (e) or (f), the buyer is entitled to a full refund of the fee.

If a buyer is entitled to a pro rata refund under this section, the amount shall be computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. If no term is stated in the contract, a term of thirty-six months shall be used. [1990 c 55 § 3; 1987 c 317 § 6.]

## Chapter 19.162

## PAY-PER-CALL INFORMATION DELIVERY SERVICES

## Sections

19.162.010	Application of consumer protection act—Scope.
19.162.020	Definitions.
19.162.030	Program message preamble.
19.162.040	Advertisement of services.
19.162.050	Services directed at children.
19.162.060	Nonpayment of charges.
19.162.070	Violations—Action for damages.

*Information delivery services through exclusive number prefix or service access code: RCW 80.36.500.*

**19.162.010 Application of consumer protection act—Scope.** (1) The legislature finds that the deceptive use of pay-per-call information delivery services is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) The deceptive use of pay-per-call information delivery services is not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW, and constitutes an act of deceptive pay-per-call information delivery service.

(3) This chapter applies to a communication made by a person in Washington or to a person in Washington. [1991 c 191 § 1.]

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

(1) "Person" means an individual, corporation, the state or its subdivisions or agencies, business trust, estate, trust, partnership, association, cooperative, or any other legal entity.

(2) "Information delivery services" means telephone-recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code.

(3) "Information provider" means the person who provides the information, prerecorded message, or interactive program for the information delivery service. The information provider generally receives a portion of the revenue from the calls. "Information provider" does not include the medium for advertising information delivery services.

(4) "Interactive program" means a program that allows an information delivery service caller, once connected to the information provider's delivery service, to use the caller's telephone device to access more specific information or further information or to talk to other callers during the call.

(5) "Telecommunications company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, and every

city or town owning, operating, or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within the state of Washington.

(6) "Interexchange carrier" means a carrier providing transmissions between local access and transport areas interstate or intrastate.

(7) "Billing services" means billing and collection services provided to information providers whether by the local exchange company or the interexchange carrier.

(8) "Program message" means the information that a caller hears or receives upon placing a call to an information provider.

(9) "Advertisement" includes all radio, television, or other broadcast, video, newspaper, magazine, or publication, billboard, direct mail, print media, telemarketing, or any promotion of an information delivery service, program, or number, and includes brochures, pamphlets, fliers, coupons, promotions, or the labeling of products or in-store communications circulated or distributed in any manner whatsoever. "Advertisement" does not include any listing in a white page telephone directory. In a yellow page telephone directory, "advertisement" includes only yellow page display advertising.

(10) "Subscriber" means the person in whose name an account is billed.

(11) "Does business in Washington" includes providing information delivery services to Washington citizens, advertising information delivery services in Washington, entering into a contract for billing services in Washington, entering into a contract in Washington with a telecommunications company or interexchange carrier for transmission services, or having a principal place of business in Washington. [1991 c 191 § 2.]

**19.162.030 Program message preamble.** (1) An information provider that does business in Washington must include a preamble in all program messages for:

(a) Programs costing more than five dollars per minute; or

(b) Programs having a total potential cost of greater than ten dollars.

(2) The preamble must:

(a) Accurately describe the service that will be provided by the program;

(b) Advise the caller of the price of the call, including:

(i) Any per minute charge;

(ii) Any flat rate charge; and

(iii) Any minimum charge;

(c) State that billing will begin shortly after the end of the introductory message; and

(d) Be clearly articulated, at a volume equal to that of the program message, in plain English or the language used to promote the information delivery service, and spoken in a normal cadence.

(3) Mechanisms that provide for the option of bypassing the preamble are only permitted when:

(a) The caller has made use of the information provider's service in the past, at which time the preamble required by this section was part of the program message; and

(b) The cost of the call has not changed during the thirty-day period before the call.

(4) When an information provider's program message consists of a polling application that permits the caller to register an opinion or vote on a matter by completing a call, this section does not apply. [1991 c 191 § 3.]

**19.162.040 Advertisement of services.** An information provider that does business in Washington shall comply with the following provisions in its advertisement of information delivery services:

(1) Advertisements for information delivery services that are broadcast by radio or television, contained in home videos, or that appear on movie screens must include a voice-over announcement that is clearly audible and articulates the price of the service provided. The announcement must be made at a volume equal to that used to announce the telephone number, spoken in a normal cadence, and in plain English or the language used in the advertisement.

(2) Advertisements for information delivery services that are broadcast by television, contained in home videos, or that appear on movie screens must include, in clearly visible letters and numbers, the cost of calling the advertised number. This visual disclosure of the cost of the call must be displayed adjacent to the number to be called whenever the number is shown in the advertisement, and the lettering of the visual disclosure of the cost must be in the same size and typeface as that of the number to be called.

(3)(a) Except as otherwise provided in (b) of this subsection, advertisements for information delivery services that appear in print must include, in clearly visible letters and numbers, the cost of calling the advertised number. The printed disclosure of the cost of the call must be displayed adjacent to the number to be called wherever the number is shown in the advertisement.

(b) In telephone directory yellow page display advertising and in printed materials published not more than three times a year, instead of disclosing the cost of the service, advertisements for information delivery services, shall include the conspicuous disclosure that the call is a pay-per-call service.

(4) The advertised price or cost of the information delivery service must include:

- (a) Any per minute charge;
- (b) Any flat rate charge; and
- (c) Any minimum charge. [1991 c 191 § 4.]

**19.162.050 Services directed at children.** An information provider that does business in the state of Washington shall not direct information delivery services to children under the age of twelve years unless the information provider complies with the following provisions:

(1) Interactive calls where children under the age of twelve years can speak to other children under the age of twelve years are prohibited.

(2) Programs directed to children under the age of twelve where the children are asked to provide their

names, addresses, telephone numbers, or other identifying information are prohibited.

(3) Advertisements for information delivery services that are directed to children under the age of twelve years must contain a visual disclosure that clearly and conspicuously in the case of print and broadcast advertising, and audibly in the case of broadcast advertising, states that children under the age of twelve years must obtain parental consent before placing a call to the advertised number.

(4) Program messages that encourage children under the age of twelve years to make increased numbers of calls in order to obtain progressively more valuable prizes, awards, or similarly denominated items are prohibited.

(5) Advertisements for information delivery services that are directed to children under the age of twelve years must contain, in age-appropriate language, an accurate description of the services being provided. In the case of print advertising, the information must be clear and conspicuous and in the case of broadcast advertising, it must be visually displayed clearly and conspicuously and verbally disclosed in an audible, clearly articulated manner.

(6) Program messages that are directed to children under the age of twelve years that employ broadcast advertising where an electronic tone signal is emitted during the broadcast of the advertisement that automatically dials the program message are prohibited. [1991 c 191 § 5.]

**19.162.060 Nonpayment of charges.** An information provider's failure to substantially comply with any of the provisions of RCW 19.162.030 through 19.162.050 is a defense to the nonpayment of charges accrued as a result of using the information provider's services, billed by any entity, including but not limited to telecommunications companies and interexchange carriers. [1991 c 191 § 6.]

**19.162.070 Violations—Action for damages.** A person who suffers damage from a violation of this chapter may bring an action against an information provider. In an action alleging a violation of this chapter, the court may award the greater of three times the actual damages sustained by the person or five hundred dollars; equitable relief, including but not limited to an injunction and restitution of money and property; attorneys' fees and costs; and any other relief that the court deems proper. For purposes of this section, a telecommunications company or interexchange carrier is a person. [1991 c 191 § 7.]

## Chapter 19.166

### INTERNATIONAL STUDENT EXCHANGE

#### Sections

- 19.166.010 Intent. (Effective January 1, 1992.)
- 19.166.020 Definitions. (Effective January 1, 1992.)
- 19.166.030 Organization registration. (Effective January 1, 1992.)

- 19.166.040 Organization application for registration. (Effective January 1, 1992.)
- 19.166.050 Standards. (Effective January 1, 1992.)
- 19.166.060 Rules—Fee. (Effective January 1, 1992.)
- 19.166.070 Informational document. (Effective January 1, 1992.)
- 19.166.080 Complaints. (Effective January 1, 1992.)
- 19.166.090 Violations—Misdemeanor. (Effective January 1, 1992.)
- 19.166.100 Violations—Consumer protection act. (Effective January 1, 1992.)
- 19.166.900 Severability—1991 c 128.
- 19.166.901 Effective date—1991 c 128.

**19.166.010 Intent. (Effective January 1, 1992.)** It is the intent of the legislature to:

(1) Promote the health, safety, and welfare of international student exchange visitors in Washington in accordance with uniform national standards;

(2) Promote quality education and living experiences for international student exchange visitors living in Washington;

(3) Promote international awareness among Washington residents, by encouraging Washington residents to interact with international student exchange visitors;

(4) Encourage public confidence in international student exchange visitor placement organizations operating in Washington;

(5) Encourage and assist with compliance with United States information agency regulations and nationally established standards; and

(6) Promote the existence and quality of international student visitor exchange programs operating in Washington. [1991 c 128 § 1.]

**19.166.020 Definitions. (Effective January 1, 1992.)** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "International student exchange visitor placement organization" or "organization" means a person, partnership, corporation, or other entity that regularly arranges the placement of international student exchange visitors for the purpose, in whole or in part, of allowing the student an opportunity to attend school in the United States.

(2) "International student exchange visitor" or "student" means any person eighteen years of age or under, or up to age twenty-one if enrolled or to be enrolled in high school in this state, placed by an international student exchange visitor placement organization, who enters the United States with a nonimmigrant visa. [1991 c 128 § 2.]

**19.166.030 Organization registration. (Effective January 1, 1992.)** (1) All international student exchange visitor placement organizations that place students in public schools in the state shall register with the secretary of state.

(2) Failure to register is a violation of this chapter.

(3) Information provided to the secretary of state under this chapter is a public record.

(4) Registration shall not be considered or be represented as an endorsement of the organization by the

secretary of state or the state of Washington. [1991 c 128 § 3.]

**19.166.040 Organization application for registration. (Effective January 1, 1992.)** (1) An application for registration as an international student exchange visitor placement organization shall be submitted in the form prescribed by the secretary of state. The application shall include:

(a) Evidence that the organization meets the standards established by the secretary of state under RCW 19.166.050;

(b) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state;

(c) The organization's unified business identification number, if any;

(d) The organization's United States Information Agency number, if any;

(e) Evidence of council on standards for international educational travel listing, if any;

(f) Whether the organization is exempt from federal income tax; and

(g) A list of the organization's placements in Washington for the previous academic year including the number of students placed, their home countries, the school districts in which they were placed, and the length of their placements.

(2) The application shall be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility for supervising placements within Washington. If the secretary of state determines that the application is complete, the secretary of state shall file the application and the applicant is registered.

(3) International student exchange visitor placement organizations that have registered shall inform the secretary of state of any changes in the information required under subsection (1) of this section within thirty days of the change.

(4) Registration under this chapter is valid for one year. The registration may be renewed annually. [1991 c 128 § 5.]

**19.166.050 Standards. (Effective January 1, 1992.)**

The secretary of state shall adopt standards for international student exchange visitor placement organizations. In adopting the standards, the secretary of state shall strive to adopt standards established by the United States Information Agency and the council on standards for international educational travel and strive to achieve uniformity with national standards. The secretary of state may incorporate standards established by the United States Information Agency or the council on standards for international educational travel by reference and may accept an organization's designation by the United States Information Agency or acceptance for listing by the council on standards for international educational travel as evidence of compliance with such standards. [1991 c 128 § 4.]

**19.166.060 Rules—Fee.** (Effective January 1, 1992.) The secretary of state may adopt rules as necessary to carry out its duties under this chapter. The rules may include providing for a reasonable registration fee, not to exceed fifty dollars, to defray the costs of processing registrations. [1991 c 128 § 6.]

**19.166.070 Informational document.** (Effective January 1, 1992.) International student exchange organizations that have agreed to provide services to place students in the state shall provide an informational document, in English, to each student, host family, and superintendent of the school district in which the student is being placed. The document shall be provided before placement and shall include the following:

(1) An explanation of the services to be performed by the organization for the student, host family, and school district;

(2) A summary of this chapter prepared by the secretary of state;

(3) Telephone numbers that the student, host family, and school district may call for assistance. The telephone numbers shall include, at minimum, an in-state telephone number for the organization, and the telephone numbers of the organization's national headquarters, if any, the United States Information Agency, and the office of the secretary of state. [1991 c 128 § 7.]

**19.166.080 Complaints.** (Effective January 1, 1992.) The secretary of state may, upon receipt of a complaint regarding an international student exchange organization, report the matter to the organization involved, the United States Information Agency, or the council on standards for international education travel, as he or she deems appropriate. [1991 c 128 § 8.]

**19.166.090 Violations—Misdemeanor.** (Effective January 1, 1992.) Any person who violates any provision of this chapter or who willfully and knowingly gives false or incorrect information to the secretary [of state], attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, is guilty of a misdemeanor punishable under chapter 9A.20 RCW. [1991 c 128 § 9.]

**19.166.100 Violations—Consumer protection act.** (Effective January 1, 1992.) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1991 c 128 § 10.]

**19.166.900 Severability—1991 c 128.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected. [1991 c 128 § 16.]

**19.166.901 Effective date—1991 c 128.** Sections 1 through 11 and 13 through 16 of this act shall take effect January 1, 1992. [1991 c 128 § 17.]

**Reviser's note:** For codification of this act [1991 c 128], see Codification Tables, Supplement Volume 9A.

## Chapter 19.170

### PROMOTIONAL ADVERTISING OF PRIZES

#### Sections

19.170.010	Finding—Violations—Consumer protection act—Application.
19.170.020	Definitions.
19.170.030	Disclosures required.
19.170.040	Disclosures—Prizes awarded—Rain checks.
19.170.050	Simulated checks—Continuing obligation checks—Notice.
19.170.060	Damages—Penalties.
19.170.070	Violation—Penalty.
19.170.080	Remedies not exclusive.
19.170.900	Severability—1991 c 227.

**19.170.010 Finding—Violations—Consumer protection act—Application.** (1) The legislature finds that deceptive promotional advertising of prizes is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) Deceptive promotional advertising of prizes is not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW, and constitutes an act of deceptive promotional advertising.

(3) This chapter applies to a promotion offer:

- Made to a person in Washington;
- Used to induce or invite a person to come to the state of Washington to claim a prize, attend a sales presentation, meet a promoter, sponsor, salesperson, or their agent, or conduct any business in this state; or
- Used to induce or invite a person to contact by any means a promoter, sponsor, salesperson, or their agent in this state. [1991 c 227 § 1.]

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

(1) "Person" means an individual, corporation, the state or its subdivisions or agencies, business trust, estate, trust, partnership, association, cooperative, or any other legal entity.

(2) "Prize" means a gift, award, travel coupon or certificate, free item, or any other item offered in a promotion that is different and distinct from the goods, service, or property promoted by a sponsor. "Prize" does not include an item offered in a promotion where all of the following elements are present:

(a) No element of chance is involved in obtaining the item offered in the promotion;

(b) The recipient has the right to review the merchandise offered for sale without obligation for at least seven days, and has a right to obtain a full refund in thirty days for the return of undamaged merchandise;

(c) The recipient may keep the item offered in the promotion without obligation; and

(d) The recipient is not required to attend any sales presentation or spend any sum in order to receive the item offered in the promotion.

(3) "Promoter" means a person conducting a promotion.

(4) "Promotion" means an advertising program, sweepstakes, contest, direct giveaway, or solicitation directed to specific named individuals, that includes the award of or chance to be awarded a prize.

(5) "Offer" means a written notice delivered by hand, mail, or other print medium offering goods, services, or property made as part of a promotion to a person based on a representation that the person has been awarded, or will be awarded, a prize.

(6) "Sponsor" means a person on whose behalf a promotion is conducted to promote or advertise goods, services, or property of that person.

(7) "Simulated check" means a document that is not currency or a check, draft, note, bond, or other negotiable instrument but has the visual characteristics thereof. "Simulated check" does not include a nonnegotiable check, draft, note, or other instrument that is used for soliciting orders for the purchase of checks, drafts, notes, bonds, or other instruments and that is clearly marked as a sample, specimen, or nonnegotiable.

(8) "Continuing obligation check" means a document that is a check, draft, note, bond, or other negotiable instrument that, when cashed, deposited, or otherwise used, imposes on the payee an obligation to enter into a loan transaction. This definition does not include checks, drafts, or other negotiable instruments that are used by consumers to take advances on revolving loans, credit cards, or revolving credit accounts.

(9) "Verifiable retail value" means:

(a) A price at which a promoter or sponsor can demonstrate that a substantial number of prizes have been sold at retail in the local market by a person other than the promoter or sponsor; or

(b) If the prize is not available for retail sale in the local market, the retail fair market value in the local market of an item substantially similar in each significant aspect, including size, grade, quality, quantity, ingredients, and utility; or

(c) If the value of the prize cannot be established under (a) or (b) of this subsection, then the prize may be valued at no more than three times its cost to the promoter or sponsor.

(10) "Financial institution" means any bank, trust company, savings bank, savings and loan association, credit union, industrial loan company, or consumer finance lender subject to regulation by an official agency of this state or the United States, and any subsidiary or affiliate thereof. [1991 c 227 § 2.]

**19.170.030 Disclosures required.** (1) The offer must identify the name and address of the promoter and the sponsor of the promotion.

(2) The offer must state the verifiable retail value of each prize offered in it.

(3)(a) If an element of chance is involved, each offer must state the odds the participant has of being awarded each prize. The odds must be expressed in Arabic numerals, in ratio form, based on the total number of prizes to be awarded and the total number of offers distributed.

(b) If the promotion identified in the offer is part of a collective promotion with more than one participating sponsor, that fact must be clearly and conspicuously disclosed.

(c) The odds must be stated in a manner that will not deceive or mislead a person about that person's chance of being awarded a prize.

(4) The verifiable retail value and odds for each prize must be stated in immediate proximity on the same page with the first listing of each prize in type at least as large as the typeface used in the standard text of the offer.

(5) If a person is required or invited to view, hear, or attend a sales presentation in order to claim a prize that has been awarded, may have been awarded, or will be awarded, the requirement or invitation must be conspicuously disclosed to the person in the offer in type at least as large as the typeface used in the standard text of the offer on the first page of the offer.

(6) No item in an offer may be denominated a prize, gift, award, premium, or similar term that implies the item is free if, in order to receive the item or use the item for its intended purpose the intended recipient is required to spend any sum of money, including but not limited to shipping fees, deposits, handling fees, payment for one item in order to receive another at no charge, or the purchase of another item or the expenditure of funds in order to make meaningful use of the item awarded in the promotion. The payment of any applicable state or federal taxes by a recipient directly to a government entity is not a violation of this section.

(7) If the receipt of the prize is contingent upon certain restrictions or qualifications that the recipient must meet, or if the use or availability of the prize is restricted or qualified in any way, including, but not limited to restrictions on travel dates, travel times, classes of travel, airlines, accommodations, travel agents, or tour operators, the restrictions or qualifications must be disclosed on the offer in immediate proximity on the same page with the first listing of the prize in type at least as large as the typeface used in the standard text of the offer or, in place thereof, the following statement printed in direct proximity to the prize or prizes awarded in type at least as large as the typeface used in the standard text of the offer:

"Major restrictions may apply to the use, availability, or receipt of the prize(s) awarded."

This statement must be followed by a disclosure, in the same size type as the statement, indicating where in

the offer the restrictions may be found. The restrictions must be printed in type at least as large as the typeface used in the standard text of the offer.

(8) If a prize will not be awarded or given unless a winning ticket, the offer itself, a token, number, lot, or other device used to determine winners in a particular promotion is presented to a promoter or a sponsor, this fact must be clearly stated on the first page of the offer. [1991 c 227 § 3.]

**19.170.040 Disclosures—Prizes awarded—Rain checks.** (1) Before a demonstration, seminar, or sales presentation begins, the promoter shall inform the person of the prize, if any, the person will receive.

(2) A prize or a voucher, certificate, or other evidence of obligation given instead of a prize shall be given to a person at the time the person is informed of the prize, if any, the person will receive.

(3) A copy of the offer shall be returned to the person receiving the prize at the time the prize is awarded.

(4) It is a violation of this chapter for a promoter or sponsor to include a prize in an offer when the promoter or sponsor knows or has reason to know that the prize will not be available in a sufficient quantity based upon the reasonably anticipated response to the offer.

(5)(a) If the prize is not available for immediate delivery to the recipient, the recipient shall be given, at the promoter or sponsor's option, a rain check for the prize, the verifiable retail value of the prize in cash, or a substitute item of equal or greater verifiable retail value.

(b) If the rain check cannot be honored within thirty days, the promoter or sponsor shall mail to the person a valid check or money order for the verifiable retail value of the prize described in this chapter.

(6) A sponsor shall fulfill the rain check within thirty days if the person named as being responsible fails to honor it.

(7) The offer shall contain the following clear and conspicuous statement of recipients' rights printed in type at least as large as the typeface used in the standard text of the offer:

"If you receive a rain check in lieu of the prize, you are entitled by law to receive the prize, an item of equal or greater value, or the cash equivalent of the offered prize within thirty days of the date on which you claimed the prize."

(8) It is a violation of this chapter to misrepresent the quality, type, value, or availability of a prize. [1991 c 227 § 4.]

**19.170.050 Simulated checks—Continuing obligation checks—Notice.** (1) No person may produce, advertise, offer for sale, sell, distribute, or otherwise transfer for use in this state a simulated check unless the document bears the phrase "THIS IS NOT A CHECK," diagonally printed in type at least as large as the predominant typeface in the simulated check on the front of the check itself.

(2) No person, other than a financial institution, may produce, advertise, offer for sale, sell, distribute, or

otherwise transfer for use in this state a continuing obligation check unless the document bears the phrase "THIS IS A LOAN" or "CASHING THIS REQUIRES REPAYMENT," diagonally printed in type at least as large as the predominant typeface in the continuing obligation check on the front of the check itself. [1991 c 227 § 5.]

**19.170.060 Damages—Penalties.** (1) A person who suffers damage from an act of deceptive promotional advertising may bring an action against the sponsor or promoter of the advertising, or both. Damages include, but are not limited to, fees paid in violation of RCW 19.170.030(6) and the dollar value of a prize represented to be awarded to a person, but not received by that person.

(2) In an action for deceptive promotional advertising, the court may award the greater of five hundred dollars or three times the actual damages sustained by the person, not to exceed ten thousand dollars; equitable relief, including, but not limited to an injunction and restitution of money and property; attorneys' fees and costs; and any other relief that the court deems proper. [1991 c 227 § 6.]

**19.170.070 Violation—Penalty.** A person who knowingly violates any provision of this chapter is guilty of a gross misdemeanor. [1991 c 227 § 7.]

**19.170.080 Remedies not exclusive.** The remedies prescribed in this chapter do not limit or bar any existing remedies at law or equity. [1991 c 227 § 8.]

**19.170.900 Severability—1991 c 227.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 227 § 11.]

## Title 20

### COMMISSION MERCHANTS— AGRICULTURAL PRODUCTS

#### Chapters

**20.01 Agricultural products—Commission merchants, dealers, brokers, buyers, agents.**

#### Chapter 20.01

### AGRICULTURAL PRODUCTS—COMMISSION MERCHANTS, DEALERS, BROKERS, BUYERS, AGENTS

#### Sections

20.01.010	Definitions.
20.01.040	License—Generally.
20.01.050	License renewals.
20.01.210	Commission merchants, dealers—Bonds.
20.01.212	Livestock dealers bonded under federal law.
20.01.370	Commission merchants—Recordkeeping.

20.01.380	Dealers, cash buyers, livestock dealers— Recordkeeping.
20.01.420	Commission merchant's report of sale to consignor.
20.01.440	Commission merchant's copy of records to be retained—Inspection—Department's certificate of condition, quality, etc.
20.01.465	Time of sale requirement—Unlawful.

**20.01.010 Definitions.** As used in this title the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Director" means the director of agriculture or his duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form and livestock.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of the products, or producing the products for others holding the title thereof.

(5) "Consignor" means any producer, person, or his agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

(6) "Commission merchant" means any person who receives on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of the consignor, or who accepts any farm product in trust from the consignor thereof for the purpose of resale, or who sells or offers for sale on commission any agricultural product, or who in any way handles for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase. For the purposes of this chapter, the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the

purchase or sale of any agricultural product, but no broker may handle the agricultural products involved or proceeds of the sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession, or control of any agricultural product or who contracts for the title, possession, or control of any agricultural product, or who buys or agrees to buy for resale any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check, or bankdraft may be used for the payment. For the purposes of this subsection, "agricultural product," does not include hay, grain, straw, or livestock.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of that business at any location other than at the principal place of business of his employer. With the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of that principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year.

(13) "Fixed or established place of business" for the purpose of this chapter means any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered, and generally dealt with in quantities reasonably adequate for and usually carried for the requirements of such a business, and that is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, which personnel are available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor that indicates the variety of horticultural product delivered, the number of containers, or the weight and tare thereof;

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records that shall include variety, grade, size, and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs. However, platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size, and date of delivery;

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product;

(d) The charges to be paid by the consignor as filed with the state of Washington;

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying the products.

(17) "Conditioner" means any person, firm, company, or other organization that receives turf, forage, or vegetable seeds from a consignor for drying or cleaning.

(18) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

(19) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

(20) "Licensed public weighmaster" means any person, licensed under the provisions of chapter 15.80 RCW, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count upon which the purchase or sale of any commodity or upon which the basic charge of payment for services rendered is based.

(21) "Certified weight" means any signed certified statement or memorandum of weight, measure or count issued by a licensed public weighmaster in accordance with the provisions of chapter 15.80 RCW. [1991 c 174 § 1; 1989 c 354 § 37; 1986 c 178 § 6; 1985 c 412 § 8; 1983 c 305 § 1; 1982 c 194 § 1; 1981 c 296 § 30; 1979 ex.s. c 115 § 1; 1977 ex.s. c 304 § 1; 1974 ex.s. c 102 § 2; 1971 ex.s. c 182 § 1; 1967 c 240 § 40; 1963 c 232 § 1; 1959 c 139 § 1.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

**Severability—1983 c 305:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 305 § 78.]

**Severability—1981 c 296:** See note following RCW 15.04.020.

**20.01.040 License—Generally.** No person may act as a commission merchant, dealer, broker, cash buyer, or agent without a license. Any person applying for such a license shall file an application with the director prior to conducting business pursuant to this chapter. No application shall be considered complete unless an effective bond or other acceptable form of security is also filed with the director, as provided under RCW 20.01.210, 20.01.211, or 20.01.212. Each license issued under this chapter shall require renewal on or before the renewal date prescribed by the director by rule. License fees shall be prorated where necessary to accommodate staggered renewals of a license or licenses. The application shall be accompanied by a license fee as prescribed by the director by rule. [1991 c 109 § 16; 1989 c 354 § 39; 1987 c 393 § 13; 1983 c 305 § 3; 1979 ex.s. c 115 § 3; 1974 ex.s. c 102 § 3; 1971 ex.s. c 182 § 3; 1959 c 139 § 4.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

**Severability—1983 c 305:** See note following RCW 20.01.010.

**20.01.050 License renewals.** If an application for renewal of a commission merchant, dealer, broker or cash buyer license is not filed prior to the prescribed renewal date a penalty of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued. [1991 c 109 § 17; 1959 c 139 § 5.]

**20.01.210 Commission merchants, dealers—Bonds.** (1) Before the license is issued to any commission merchant or dealer, or both, the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Said bond shall be to the state for the benefit of qualified consignors of agricultural products in this state. All such sureties on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration period provided for above.

(2) The bond for a commission merchant or dealer in hay, straw or turf, forage or vegetable seed shall be not less than fifteen thousand dollars. The actual amount of such bond shall be determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by twelve and increasing that amount to the next multiple of five thousand dollars, except that the bond amount for dollar volume arising from proprietary seed bailment contracts shall be computed as provided in subsection (4) of this section. Such bond for a new commission merchant or dealer in hay, straw or turf, forage or vegetable seed shall be subject to

increase at any time during the licensee's first year of operation based on the average of business volume for any three months. Except as provided in subsection (3) of this section, the bond shall be not less than ten thousand dollars for any other dealer.

(3) The bond for a commission merchant or dealer in livestock shall be not less than ten thousand dollars. The actual amount of such bond shall be determined in accordance with the formula set forth in the packers and stockyard act of 1921 (7 U.S.C. 181), except that a commission merchant or dealer in livestock shall increase the commission merchant's or dealer's bond by five thousand dollars for each agent the commission merchant or dealer has endorsed under RCW 20.01.090. A dealer who also acts as an order buyer for other persons who are also licensed and bonded under this chapter or under the packers and stockyards act (7 U.S.C. 181) may subtract that amount of business from the annual gross volume of purchases reported to the director in determining the amount of bond coverage that must be provided and maintained for the purposes of this chapter.

(4) The bond for a commission merchant handling agricultural products other than livestock, hay, straw or turf, forage or vegetable seed shall not be less than ten thousand dollars. The bond for a dealer handling agricultural products other than livestock, hay, straw or turf, forage or vegetable seed shall not be less than ten thousand dollars. The actual amount of such bond shall be determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by fifty-two and increasing that amount to the next multiple of two thousand dollars. However, bonds above twenty-six thousand dollars shall be increased to the next multiple of five thousand dollars.

(5) When the annual dollar volume of any commission merchant or dealer reaches two million six hundred thousand dollars, the amount of the bond required above this level shall be on a basis of ten percent of the amount arrived at by applying the appropriate formula. [1991 c 109 § 18; 1986 c 178 § 9; 1983 c 305 § 4; 1982 c 194 § 3; 1977 ex.s. c 304 § 6; 1974 ex.s. c 102 § 5; 1971 ex.s. c 182 § 8; 1963 c 232 § 5. Prior: 1959 c 139 § 21.]

**Severability**—1983 c 305: See note following RCW 20.01.010.  
*Cash or other security in lieu of surety bond: RCW 20.01.570.*

**20.01.212 Livestock dealers bonded under federal law.** If an applicant for a commission merchant's and/or dealer's license is bonded as a livestock dealer or packer under the provisions of the Packers and Stockyards Act of 1921 (7 U.S.C. 181), as amended, on June 13, 1963, and acts as a commission merchant, packer, and/or a dealer only in livestock as defined in said Packers and Stockyards Act of 1921 (7 U.S.C. 181), the director may accept such bond in lieu of the bond required in RCW 20.01.210 as good and sufficient and issue the applicant a license limited solely to dealing in livestock. A dealer buying and selling livestock who has furnished a bond as required by the packers and stockyards administration to cover acting as order buyer as well as dealer may also act as an order buyer for others under

the provisions of this chapter, and all persons who act as order buyers of livestock shall license under this chapter as a livestock dealer: **PROVIDED**, That the applicant shall furnish the director with a bond approved by the United States secretary of agriculture. Such bond shall be in a minimum amount of ten thousand dollars. It shall be a violation for the licensee to act as a commission merchant and/or dealer in any other agricultural commodity without first having notified the director and furnishing him with a bond as required under the provisions of RCW 20.01.210, and failure to furnish the director with such bond shall be cause for the immediate suspension of the licensee's license, and revocation subject to a hearing. [1991 c 109 § 19; 1977 ex.s. c 304 § 7; 1971 ex.s. c 182 § 9; 1963 c 232 § 6.]

**20.01.370 Commission merchants—Recordkeeping.** Every commission merchant taking control of any agricultural products for sale as such commission merchant, shall promptly make and keep for a period of three years, beginning on the day the sale of the product is complete, a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.
- (4) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold, and proof of payments received on behalf of the consignor.
- (5) The terms of payment to the producer.
- (6) An itemized statement of the charges to be paid by consignor in connection with the sale.
- (7) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in said records following the name of any such purchaser.

(8) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and other essential records needed to show what the agricultural products actually sold for.

(9) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such agricultural products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of agricultural products for whom such claim or claims are made.

Before a commission merchant may handle an agricultural product in a pooling arrangement or accounting, the consignor must have agreed in writing to allow the pooling.

Where a pooling arrangement is agreed to in writing between the consignor and commission merchant, the reporting requirements of subsections (4), (5), (6), and (8) of this section shall apply to the pool rather than to the individual consignor or consignment and the records of the pool shall be available for inspection by any consignor to that pool.

For individual accounting, the commission merchant shall transmit a copy of the record required by this section to the consignor on the same day the final remittance is made to the consignor as required by RCW 20.01.430. For a consignor who is participating in a pooling arrangement, the commission merchant shall, on the same day final remittance and accounting are made to the consignor as required by RCW 20.01.430, transmit to the consignor a summary of the records which are available for inspection by any consignor to that pool. [1991 c 109 § 20; 1989 c 354 § 41; 1988 c 254 § 18; 1979 ex.s. c 115 § 5; 1977 ex.s. c 304 § 9; 1974 ex.s. c 102 § 6; 1963 c 232 § 3; 1959 c 139 § 37.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

**20.01.380 Dealers, cash buyers, livestock dealers—Recordkeeping.** Every dealer or cash buyer purchasing any agricultural products from the consignor thereof shall promptly make and keep for three years a correct record showing in detail the following:

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The terms of the sale.
- (4) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.
- (5) An itemized statement of any charges paid by the dealer or cash buyer for the account of the consignor.
- (6) The name and address of the purchaser: PROVIDED, That the name and address of the purchaser may be deleted from the record furnished to the consignor.

A copy of such record containing the above matters shall be forwarded to the consignor forthwith.

Livestock dealers must also maintain individual animal identification and disposition records as may be required by law, or regulation adopted by the director. [1991 c 109 § 21; 1989 c 354 § 42; 1988 c 254 § 17; 1981 c 296 § 33; 1963 c 232 § 4; 1959 c 139 § 38.]

**Severability—1989 c 354:** See note following RCW 15.32.010.

**Severability—1981 c 296:** See note following RCW 15.04.020.

**20.01.420 Commission merchant's report of sale to consignor.** When requested by a consignor, a commission merchant shall promptly make available to the consignor or to the director all records of the ongoing sales of the consignor's agricultural products showing the amount sold, the selling price, and any other information required under RCW 20.01.370. [1991 c 109 § 22; 1959 c 139 § 42.]

**20.01.440 Commission merchant's copy of records to be retained—Inspection—Department's certificate**

**of condition, quality, etc.** Every commission merchant shall retain a copy of all records covering each transaction for a period of three years from the date thereof, which copy shall at all times be available for, and open to, the confidential inspection of the director and the consignor, or authorized representative of either. In the event of any dispute or disagreement between a consignor and a commission merchant arising at the time of delivery as to condition, quality, grade, pack, quantity, or weight of any lot, shipment or consignment of agricultural products, the department shall furnish, upon the payment of a reasonable fee therefor by the requesting party, a certificate establishing the condition, quality, grade, pack, quantity, or weight of such lot, shipment or consignment. Such certificate shall be prima facie evidence in all courts of this state as to the recitals thereof. The burden of proof shall be upon the commission merchant to prove the correctness of his accounting as to any transaction which may be questioned. [1991 c 109 § 23; 1959 c 139 § 44.]

**20.01.465 Time of sale requirement—Unlawful.** In the preparation and use of written contracts, it is unlawful for a commission merchant to include in such contracts a requirement that a consignor give up all involvement in determining the time the consignor's agricultural products will be sold. This provision does not apply to agricultural products consigned to a commission merchant under a written pooling agreement. [1991 c 109 § 24.]

## Title 22

### WAREHOUSING AND DEPOSITS

#### Chapters

**22.09 Agricultural commodities.**

#### Chapter 22.09

#### AGRICULTURAL COMMODITIES

##### Sections

22.09.050	Warehouse license fees, penalties.
22.09.055	Grain dealer license fees, penalties.
22.09.070	Warehouse licenses—Issuance—Posting—Duration.
22.09.075	Grain dealer licenses—Issuance—Posting—Duration.
22.09.240	Rights and duties of warehousemen—Schedule of rates—Posting—Revision.
22.09.411	Grain indemnity fund program—Fund established—Contents, deposits, disbursements, use.

**22.09.050 Warehouse license fees, penalties.** Any application for a license to operate a warehouse shall be accompanied by a license fee of four hundred dollars for a terminal warehouse, three hundred dollars for a sub-terminal warehouse, and one hundred dollars for a country warehouse. If a licensee operates more than one warehouse under one state license as provided for in RCW 22.09.030, the license fee shall be computed by

multiplying the number of physically separated warehouses within the station by the applicable terminal, subterminal, or country warehouse license fee. If an application for renewal of a warehouse license or licenses is not received by the department prior to the renewal date or dates established by the director by rule, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a warehouseman subsequent to the expiration of his prior license. [1991 c 109 § 25; 1986 c 203 § 13; 1983 c 305 § 22; 1979 ex.s. c 238 § 14; 1963 c 124 § 5.]

**Severability—1986 c 203:** See note following RCW 15.04.100.

**Severability—1983 c 305:** See note following RCW 20.01.010.

**22.09.055 Grain dealer license fees, penalties.** An application for a license to operate as a grain dealer shall be accompanied by a license fee of three hundred dollars unless the applicant is also a licensed warehouseman, in which case the fee for a grain dealer license shall be one hundred fifty dollars. The license fee for grain dealers exempted from bonding under RCW 22.09.060 shall be seventy-five dollars.

If an application for renewal of a grain dealer license is not received by the department before the renewal date or dates established by the director by rule, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a grain dealer after the expiration of his prior license. [1991 c 109 § 26; 1988 c 95 § 1; 1986 c 203 § 14; 1983 c 305 § 23.]

**Severability—1986 c 203:** See note following RCW 15.04.100.

**Severability—1983 c 305:** See note following RCW 20.01.010.

**22.09.070 Warehouse licenses—Issuance—Posting—Duration.** The department shall issue a warehouse license to an applicant upon its determination that the applicant has facilities adequate for handling and storage of commodities and, if applicable, conditioning, and that the application is in the proper form and upon approval of the matters contained on the application and upon a showing that the applicant has complied with the provisions of this chapter and rules adopted hereunder. The licensee shall immediately upon receipt of the license post it in a conspicuous place in the office of the licensed warehouse or if a station license, in the main office at the station. The license automatically expires on the date set by rule by the director unless it has been revoked, canceled, or suspended by the department before that date. Fees shall be prorated where necessary to accommodate the staggering of renewal dates of a license or licenses. [1991 c 109 § 27; 1983 c 305 § 25; 1963 c 124 § 7.]

**Severability—1983 c 305:** See note following RCW 20.01.010.

**22.09.075 Grain dealer licenses—Issuance—Posting—Duration.** The department shall issue a grain dealer license to an applicant upon its determination that the application is in its proper form and upon approval of the matters contained on the application and upon a showing that the applicant has complied with the provisions of this chapter and rules adopted hereunder. The licensee shall immediately upon receipt of the license post it in a conspicuous place in its principal place of business. The license expires automatically on a date set by rule by the director unless it has been revoked, canceled, or suspended by the department before that date. Fees shall be prorated where necessary in order to accommodate staggered renewal of a license or licenses. [1991 c 109 § 28; 1983 c 305 § 26.]

**Severability—1983 c 305:** See note following RCW 20.01.010.

**22.09.240 Rights and duties of warehousemen—Schedule of rates—Posting—Revision.** Every warehouseman shall annually, during the first week in July, publish by posting in a conspicuous place in each of his warehouses the schedule of handling, conditioning, and storage rates filed with the department for the ensuing license year. The schedule shall be kept posted, and the rates shall not be changed during such year except after thirty days' written notice to the director and proper posting of the changes on the licensee's premises. [1991 c 109 § 29; 1983 c 305 § 40; 1963 c 124 § 24.]

**Severability—1983 c 305:** See note following RCW 20.01.010.

**22.09.411 Grain indemnity fund program—Fund established—Contents, deposits, disbursements, use.** (1) There is hereby established a fund to be known as the grain indemnity fund. The grain indemnity fund shall consist of assessments remitted by licensees pursuant to the provisions of RCW 22.09.416 through 22.09.426.

(2) All assessments shall be paid to the department and shall be deposited in the grain indemnity fund. The state treasurer shall be the custodian of the grain indemnity fund. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this fund.

(3) The grain indemnity fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the grain indemnity fund, provided however, that moneys equivalent to one-half of the interest earned by the fund for deposit to the general fund may be paid to the department to defray costs of administering the warehouse audit program. The state of Washington shall not be liable for any claims presented against the fund. [1991 1st sp.s. c 13 § 67; 1987 c 509 § 8.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Severability—1987 c 509:** See note following RCW 22.09.060.

## Title 23

CORPORATIONS AND ASSOCIATIONS  
(PROFIT)

(Business Corporation Act: See Title 23B RCW)

## Chapters

23.78 Employee cooperative corporations.

23.86 Cooperative associations.

## Chapter 23.78

## EMPLOYEE COOPERATIVE CORPORATIONS

## Sections

23.78.020	Election by corporation to be governed as an employee cooperative—Laws governing.
23.78.030	Revocation of election.
23.78.050	Members—Membership shares.
23.78.060	Right to vote—Power to amend or repeal bylaws— Right to amend articles of incorporation.
23.78.080	Internal capital accounts authorized—Redemptions—Assignment of portion of retained net earnings and net losses to collective reserve account authorized.
23.78.100	Provision for conversion of shares and accounts— Limitations upon merger.

**23.78.020 Election by corporation to be governed as an employee cooperative—Laws governing.** Any corporation organized under the laws of this state may elect to be governed as an employee cooperative under the provisions of this chapter, by so stating in its articles of incorporation, or articles of amendment filed in accordance with Title 23B RCW.

A corporation so electing shall be governed by all provisions of Title 23B RCW, except RCW 23B.07.050, 23B.13.020, and chapter 23B.11 RCW, and except as otherwise provided in this chapter. [1991 c 72 § 9; 1987 c 457 § 3.]

**23.78.030 Revocation of election.** An employee cooperative may revoke its election under this chapter by a vote of two-thirds of the members and through articles of amendment filed with the secretary of state in accordance with RCW 23B.01.200 and 23B.10.060. [1991 c 72 § 10; 1987 c 457 § 4.]

**23.78.050 Members—Membership shares.** (1) The articles of incorporation or the bylaws shall establish qualifications and the method of acceptance and termination of members. No person may be accepted as a member unless employed by the employee cooperative on a full-time or part-time basis.

(2) An employee cooperative shall issue a class of voting stock designated as "membership shares." Each member shall own only one membership share, and only members may own these shares.

(3) Membership shares shall be issued for a fee as determined from time to time by the directors. RCW 23B.06.040 and 23B.06.200 do not apply to such membership shares.

Members of an employee cooperative shall have all the rights and responsibilities of stockholders of a corporation organized under Title 23B RCW, except as otherwise provided in this chapter. [1991 c 72 § 11; 1987 c 457 § 6.]

**23.78.060 Right to vote—Power to amend or repeal bylaws—Right to amend articles of incorporation.** (1) No capital stock other than membership shares shall be given voting power in an employee cooperative, except as otherwise provided in this chapter, or in the articles of incorporation.

(2) The power to amend or repeal bylaws of an employee cooperative shall be in the members only.

(3) Except as otherwise permitted by RCW 23B.10.040, no capital stock other than membership shares shall be permitted to vote on any amendment to the articles of incorporation. [1991 c 72 § 12; 1987 c 457 § 7.]

**23.78.080 Internal capital accounts authorized—Redemptions—Assignment of portion of retained net earnings and net losses to collective reserve account authorized.** (1) Any employee cooperative may establish through its articles of incorporation or bylaws a system of internal capital accounts to reflect the book value and to determine the redemption price of membership shares, capital stock, and written notices of allocation.

(2) The articles of incorporation or bylaws of an employee cooperative may permit the periodic redemption of written notices of allocation and capital stock, and must provide for recall and redemption of the membership share upon termination of membership in the cooperative. No redemption shall be made if redemption would result in a violation of RCW 23B.06.400.

(3) The articles of incorporation or bylaws may provide for the employee cooperative to pay or credit interest on the balance in each member's internal capital account.

(4) The articles of incorporation or bylaws may authorize assignment of a portion of retained net earnings and net losses to a collective reserve account. Earnings assigned to the collective reserve account may be used for any and all corporate purposes as determined by the board of directors. [1991 c 72 § 13; 1987 c 457 § 9.]

**23.78.100 Provision for conversion of shares and accounts—Limitations upon merger.** (1) When any employee cooperative revokes its election in accordance with RCW 23.78.030, the articles of amendment shall provide for conversion of membership shares and internal capital accounts or their conversion to securities or other property in a manner consistent with Title 23B RCW.

(2) An employee cooperative that has not revoked its election under this chapter may not merge with another corporation other than an employee cooperative. Two or more employee cooperatives may merge in accordance with RCW 23B.01.200, 23B.07.050, and chapter 23B.11 RCW. [1991 c 72 § 14; 1987 c 457 § 11.]

**Chapter 23.86**  
**COOPERATIVE ASSOCIATIONS**

## Sections

23.86.070	Filing fees.
23.86.145	Rights of dissenting members.
23.86.200	Definitions.
23.86.210	Conversion of cooperative association to domestic ordinary business corporation—Procedure.
23.86.220	Merger of cooperative association with one or more cooperative associations or business corporations—Procedure.
23.86.230	Merger of cooperative association with one or more cooperative associations or business corporations—Rights, powers, duties and liabilities of surviving entity—Articles.
23.86.330	Application of RCW 23B.14.200 and 23B.14.210.
23.86.340	Application of RCW 23B.14.220—Reinstatement.
23.86.360	Application of Title 23B RCW.

**23.86.070 Filing fees.** For filing articles of incorporation of an association organized under this chapter or filing application for a certificate of authority by a foreign corporation, there shall be paid to the secretary of state the sum of twenty-five dollars and for filing of an amendment the sum of twenty dollars. Fees for filing other documents with the secretary of state and issuing certificates shall be as prescribed in RCW 23B.01.220. Associations subject to this chapter shall not be subject to any corporation license fees excepting the fees hereinabove enumerated. [1991 c 72 § 15; 1989 c 307 § 9; 1982 c 35 § 173; 1959 c 263 § 2; 1953 c 214 § 1; 1925 ex.s. c 99 § 1; 1913 c 19 § 4; RRS § 3907. Formerly RCW 23.56.070.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**Intent—Severability—Effective dates—Application—1982 c 35:** See notes following RCW 43.07.160.

**23.86.145 Rights of dissenting members.** (1) Except as provided otherwise under subsection (2) of this section, the rights and procedures set forth in chapter 23B.13 RCW shall apply to a member who elects to exercise the right of dissent.

(2) The articles of incorporation of an association subject to this chapter may provide that a dissenting member shall be limited to a return of less than the fair value of the member's equity interest in the association, but a dissenting member may not be limited to a return of less than the consideration paid to or retained by the association for the equity interest unless the fair value is less than the consideration paid to or retained by the association. [1991 c 72 § 16; 1989 c 307 § 31.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**23.86.200 Definitions.** For the purposes of RCW 23.86.200 through 23.86.230 a "domestic" cooperative association or "domestic" corporation is one formed under the laws of this state, and an "ordinary business" corporation is one formed or which could be formed under Title 23B RCW. [1991 c 72 § 17; 1971 ex.s. c 221 § 1.]

**23.86.210 Conversion of cooperative association to domestic ordinary business corporation—Procedure.** (1) A cooperative association may be converted to a domestic ordinary business corporation pursuant to the following procedures:

(a) The board of directors of the association shall, by affirmative vote of not less than two-thirds of all such directors, adopt a plan for such conversion setting forth:

(i) The reasons why such conversion is desirable and in the interests of the members of the association;

(ii) The proposed contents of articles of conversion with respect to items (ii) through (ix) of subparagraph (c) below; and

(iii) Such other information and matters as the board of directors may deem to be pertinent to the proposed plan.

(b) After adoption by the board of directors, the plan for conversion shall be submitted for approval or rejection to the members of the association at any regular meetings or at any special meetings called for that purpose, after notice of the proposed conversion has been given to all members entitled to vote thereon, in the manner provided by the bylaws. The notice of the meeting shall be accompanied by a full copy of the proposed plan for conversion or by a summary of its provisions. At the meeting members may vote upon the proposed conversion in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon shall be required for approval of the plan of conversion. If the total vote upon the proposed conversion shall be less than twenty-five percent of the total membership of the association, the conversion shall not be approved.

(c) Upon approval by the members of the association, the articles of conversion shall be executed in duplicate by the association by one of its officers and shall set forth:

(i) The dates and vote by which the plan for conversion was adopted by the board of directors and members respectively;

(ii) The corporate name of the converted organization. The name shall comply with requirements for names of business corporations formed under Title 23B RCW, and shall not contain the term "cooperative";

(iii) The purpose or purposes for which the converted corporation is to exist;

(iv) The duration of the converted corporation, which may be perpetual or for a stated term of years;

(v) The capitalization of the converted corporation and the class or classes of shares of stock into which divided, together with the par value, if any, of such shares, in accordance with statutory requirements applicable to ordinary business corporations, and the basis upon which outstanding shares of the association are converted into shares of the converted corporation;

(vi) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the converted corporation;

(vii) The address of the converted corporation's initial registered office and its initial registered agent at such address;

(viii) The names and addresses of the persons who are to serve as directors of the converted corporation until the first annual meeting of shareholders of the converted corporation or until their successors are elected and qualify;

(ix) Any additional provisions, not inconsistent with law, provided for by the plan for conversion for the regulation of the internal affairs of the converted corporation, including any provision restricting the transfer of shares or which under Title 23B RCW is required or permitted to be set forth in bylaws.

(d) The executed duplicate originals of the articles of conversion shall be delivered to the secretary of state. If the secretary of state finds that the articles of conversion conform to law, the secretary of state shall, when all the fees have been paid as in this section prescribed:

(i) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(ii) File one of such originals; and

(iii) Issue a certificate of conversion to which one of such originals shall be affixed.

(e) The certificate of conversion, together with the original of the articles of conversion affixed thereto by the secretary of state, shall be returned to the converted corporation or its representative. The original affixed to the certificate of conversion shall be retained by the converted corporation.

(f) Upon filing the articles of conversion the converted corporation shall pay, and the secretary of state shall collect, the same filing and license fees as for filing articles of incorporation of a newly formed business corporation similarly capitalized.

(2) Upon filing by the secretary of state of the articles of conversion, the conversion of the cooperative association to an ordinary business corporation shall become effective; the articles of conversion shall thereafter constitute and be treated in like manner as articles of incorporation; and the converted corporation shall be subject to all laws applicable to corporations formed under Title 23B RCW, and shall not thereafter be subject to laws applying only to cooperative associations. The converted corporation shall constitute and be deemed to constitute a continuation of the corporate substance of the cooperative association and the conversion shall in no way derogate from the rights of creditors of the former association. [1991 c 72 § 18; 1989 c 307 § 27; 1982 c 35 § 175; 1981 c 297 § 34; 1971 ex.s. c 221 § 2.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**Intent—Severability—Effective dates—Application—1982 c 35:** See notes following RCW 43.07.160.

**Severability—1981 c 297:** See note following RCW 15.36.110.

**23.86.220 Merger of cooperative association with one or more cooperative associations or business corporations—Procedure.** (1) A cooperative association may merge with one or more domestic cooperative associations, or with one or more domestic ordinary business corporations, in accordance with the procedures and subject to the conditions set forth or referred to in this section.

(2) If the merger is into another domestic cooperative association, the board of directors of each of the associations shall approve by vote of not less than two-thirds of all the directors, a plan of merger setting forth:

(a) The names of the associations proposing to merge;

(b) The name of the association which is to be the surviving association in the merger;

(c) The terms and conditions of the proposed merger;

(d) The manner and basis of converting the shares of each merging association into shares or other securities or obligations of the surviving association;

(e) A statement of any changes in the articles of incorporation of the surviving association to be effected by such merger; and

(f) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(3) Following approval by the boards of directors, the plan of merger shall be submitted to a vote of the members of each of the associations at any regular meeting or at any special meetings called for that purpose, after notice of the proposed merger has been given to all members entitled to vote thereon, in the manner provided in the bylaws. The notice of the meeting shall be in writing stating the purpose or purposes of the meeting and include or be accompanied by a copy or summary of the plan of merger. At the meeting members may vote upon the proposed merger in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon, by each association, shall be required for approval of the plan of merger. If the total vote of either association upon the proposed merger shall be less than twenty-five percent of the total membership of such association, the merger shall not be approved.

(4) Upon approval by the members of the associations proposing to merge, articles of merger shall be executed in duplicate by each association by an officer of each association, and shall set forth:

(a) The plan of merger;

(b) As to each association, the number of members and, if there is capital stock, the number of shares outstanding; and

(c) As to each association, the number of members who voted for and against such plan, respectively.

(5) Duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this section prescribed:

(a) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(b) File one of such originals; and

(c) Issue a certificate of merger to which one of such originals shall be affixed.

(6) The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state shall be returned to the surviving association or its representative.

(7) For filing articles of merger hereunder the secretary of state shall charge and collect the same fees as

apply to filing of articles of merger of ordinary business corporations.

(8) If the plan of merger is for merger of the cooperative association into a domestic ordinary business corporation, the association shall follow the same procedures as hereinabove provided for merger of domestic cooperative associations and the ordinary business corporation shall follow the applicable procedures set forth in RCW 23B.07.050 and chapter 23B.11 RCW.

(9) At any time prior to filing of the articles of merger, the merger may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger. [1991 c 72 § 19; 1989 c 307 § 28; 1982 c 35 § 176; 1981 c 297 § 35; 1971 ex.s. c 221 § 3.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**Intent—Severability—Effective dates—Application—1982 c 35:** See notes following RCW 43.07.160.

**Severability—1981 c 297:** See note following RCW 15.36.110.

**23.86.230 Merger of cooperative association with one or more cooperative associations or business corporations—Rights, powers, duties and liabilities of surviving entity—Articles.** (1) Upon issuance of the certificate of merger by the secretary of state, the merger of the cooperative association into another cooperative association or ordinary business corporation, as the case may be, shall be effected.

(2) When merger has been effected:

(a) The several parties to the plan of merger shall be a single cooperative association or corporation, as the case may be, which shall be that cooperative association or corporation designated in the plan of merger as the survivor.

(b) The separate existence of all parties to the plan of merger, except that of the surviving cooperative association or corporation, shall cease.

(c) If the surviving entity is a cooperative association, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative association organized under chapter 23.86 RCW. If the surviving entity is an ordinary business corporation, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized or existing under Title 23B RCW.

(d) Such surviving cooperative association or corporation, as the case may be, shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, both public and private of each of the merging organizations, to the extent that such rights, privileges, immunities, and franchises are not inconsistent with the corporate nature of the surviving organization; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the organizations so merged shall be taken and deemed to be transferred to and vested in such surviving cooperative association or

corporation, as the case may be, without further act or deed; and the title to any real estate, or any interest therein, vested in any such merged cooperative association shall not revert or be in any way impaired by reason of such merger.

(3) The surviving cooperative association or corporation, as the case may be, shall, after the merger is effected, be responsible and liable for all the liabilities and obligations of each of the organizations so merged; and any claim existing or action or proceeding pending by or against any of such organizations may be prosecuted as if the merger had not taken place and the surviving cooperative association or corporation may be substituted in its place. Neither the right of creditors nor any liens upon the property of any cooperative association or corporation party to the merger shall be impaired by the merger.

(4) The articles of incorporation of the surviving cooperative association or of the surviving ordinary business corporation, as the case may be, shall be deemed to be amended to the extent, if any, that changes in such articles are stated in the plan of merger. [1991 c 72 § 20; 1989 c 307 § 29; 1971 ex.s. c 221 § 4.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**23.86.330 Application of RCW 23B.14.200 and 23B.14.210.** The provisions of RCW 23B.14.200 and 23B.14.210 shall apply to every association subject to this chapter formed on or after July 23, 1989. [1991 c 72 § 21; 1989 c 307 § 17.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**23.86.340 Application of RCW 23B.14.220—Reinstatement.** The provisions of RCW 23B.14.220 shall apply to every association subject to this chapter. An association may apply for reinstatement within three years after the effective date of dissolution. [1991 c 72 § 22; 1989 c 307 § 18.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**23.86.360 Application of Title 23B RCW.** The provisions of Title 23B RCW shall apply to the associations subject to this chapter, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. The terms "shareholder" or "shareholders" as used in Title 23B RCW, or in chapter 24.06 RCW as incorporated by reference herein, shall be deemed to refer to "member" or "members" as defined in this chapter. When the terms "share" or "shares" are used with reference to voting rights in Title 23B RCW, or in chapter 24.06 RCW as incorporated by reference herein, such terms shall be deemed to refer to the vote or votes entitled to be cast by a member or members. [1991 c 72 § 23; 1989 c 307 § 32.]

**Legislative finding—1989 c 307:** See note following RCW 23.86.007.

**Title 23A**  
**WASHINGTON BUSINESS CORPORATION**  
**ACT**

**Chapters****23A.32 Foreign corporations.**

**Chapter 23A.32**  
**FOREIGN CORPORATIONS**

**Sections**

23A.32.050 Repealed.

**23A.32.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Title 23B**  
**WASHINGTON BUSINESS CORPORATION**  
**ACT**

**Chapters**

- 23B.01 General provisions.**
- 23B.02 Incorporation.**
- 23B.04 Name.**
- 23B.06 Shares and distributions.**
- 23B.07 Shareholders.**
- 23B.08 Directors and officers.**
- 23B.10 Amendment of articles of incorporation and bylaws.**
- 23B.11 Merger and share exchange.**
- 23B.12 Sale of assets.**
- 23B.13 Dissenters' rights.**
- 23B.14 Dissolution.**
- 23B.15 Foreign corporations.**
- 23B.16 Records and reports.**

**Chapter 23B.01**  
**GENERAL PROVISIONS**

**Sections**

- 23B.01.200 Filing requirements.
- 23B.01.210 Forms.
- 23B.01.220 Fees.
- 23B.01.280 Certificate of existence or authorization.
- 23B.01.400 Definitions.
- 23B.01.410 Notice.
- 23B.01.510 Foreign corporations—Notice of due date for payment of annual license fee and filing annual report.
- 23B.01.570 Penalty for nonpayment of annual corporate license fees and failure to file a substantially complete annual report—Payment of delinquent fees.
- 23B.01.580 Waiver of penalty fees.

**23B.01.200 Filing requirements.** (1) A document must satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

(2) This title must require or permit filing the document in the office of the secretary of state.

(3) The document must contain the information required by this title. It may contain other information as well.

(4) The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(5) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(6) Unless otherwise indicated in this title, all documents submitted for filing must be executed:

(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may but need not contain: (a) The corporate seal; (b) an attestation by the secretary or an assistant secretary; or (c) an acknowledgment, verification, or proof.

(8) If the secretary of state has prescribed a mandatory form for the document under RCW 23B.01.210, the document must be in or on the prescribed form.

(9) The document must be delivered to the office of the secretary of state for filing and must be accompanied by one exact or conformed copy, the correct filing fee or charge, including license fee, penalty and service fee, and any attachments which are required for the filing. [1991 c 72 § 24; 1989 c 165 § 3.]

**23B.01.210 Forms.** The secretary of state may prescribe and furnish on request, forms for: (1) An application for a certificate of existence; (2) a foreign corporation's application for a certificate of authority to transact business in this state; (3) a foreign corporation's application for a certificate of withdrawal; (4) an initial report; (5) an annual report; and (6) such other forms not in conflict with this title as may be prescribed by the secretary of state. If the secretary of state so requires, use of these forms is mandatory. [1991 c 72 § 25; 1989 c 165 § 4.]

**23B.01.220 Fees.** (1) The secretary of state shall collect in accordance with the provisions of this title:

(a) Fees for filing documents and issuing certificates;

(b) Miscellaneous charges;

(c) License fees as provided in RCW 23B.01.500 through 23B.01.550;

(d) Penalty fees; and

(e) Other fees as the secretary of state may establish by rule adopted under chapter 34.05 RCW.

(2) The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(a) One hundred seventy-five dollars, pursuant to RCW 23B.01.520 and 23B.01.540, for:

- (i) Articles of incorporation; and
- (ii) Application for certificate of authority;
- (b) Fifty dollars for an application for reinstatement;
- (c) Twenty-five dollars for:
  - (i) Articles of correction;
  - (ii) Amendment of articles of incorporation;
  - (iii) Restatement of articles of incorporation, with or without amendment;

- (iv) Articles of merger or share exchange;
- (v) Articles of revocation of dissolution; and
- (vi) Application for amended certificate of authority;
- (d) Twenty dollars for an application for reservation, registration, or assignment of reserved name;

(e) Ten dollars for:

- (i) Corporation's statement of change of registered agent or registered office, or both, except where this information is provided in conjunction with and on an initial report or an annual report form filed under RCW 23B.01.530, 23B.01.550, 23B.02.050, or 23B.16.220;

(ii) Agent's resignation, or statement of change of registered office, or both, for each affected corporation;

(iii) Initial report or annual report; and

(iv) Any document not listed in this subsection that is required or permitted to be filed under this title;

- (f) No fee for:
- (i) Agent's consent to act as agent;
  - (ii) Agent's resignation, if appointed without consent;
  - (iii) Articles of dissolution;
  - (iv) Certificate of judicial dissolution; and
  - (v) Application for certificate of withdrawal.

(3) The secretary of state shall collect a fee of twenty-five dollars per defendant served, upon being served process under this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

(4) The secretary of state shall collect from every person or organization:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, ten dollars for the certificate, plus twenty cents for each page copied;

(b) For furnishing a certificate, under seal, attesting to the existence of a corporation, or any other certificate, ten dollars; and

(c) For furnishing copies of any document, instrument, or paper relating to a corporation, other than of an initial report or an annual report, one dollar for the first page and twenty cents for each page copied thereafter. The fee for furnishing a copy of the most recent annual report of a corporation (or of the initial report if no annual report has been filed) is one dollar, and the fee for furnishing a copy of any other annual report of a corporation is five dollars.

(5) For annual license fees for domestic and foreign corporations, see RCW 23B.01.500, 23B.01.510, 23B.01.530, and 23B.01.550. For penalties for nonpayment of annual license fees and failure to complete annual report, see RCW 23B.01.570. [1991 c 72 § 26; 1990 c 178 § 1; 1989 c 165 § 5.]

**Effective date—1990 c 178:** "This act shall take effect July 1, 1990." [1990 c 178 § 13.]

#### **23B.01.280 Certificate of existence or authorization.**

(1) Any person may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(2) A certificate of existence or authorization means that as of the date of its issuance:

(a) The domestic corporation is duly incorporated under the laws of this state, or that the foreign corporation is authorized to transact business in this state;

(b) All fees and penalties owed to this state under this title have been paid, if (i) payment is reflected in the records of the secretary of state, and (ii) nonpayment affects the existence or authorization of the domestic or foreign corporation;

(c) The corporation's initial report or its most recent annual report required by RCW 23B.16.220 has been delivered to the secretary of state; and

(d) Articles of dissolution or an application for withdrawal have not been filed by the secretary of state.

(3) A person may apply to the secretary of state to issue a certificate covering any fact of record.

(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in the corporate form in this state. [1991 c 72 § 27; 1989 c 165 § 11.]

**23B.01.400 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or bold-face or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(5) "Deliver" includes (a) mailing and (b) for purposes of delivering a demand, consent, or waiver to the corporation or one of its officers, transmission by facsimile equipment.

(6) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or in-currence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(8) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(9) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, profit and not-for-profit unincorporated association, business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest, and the state, United States, and a foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(12) "Governmental subdivision" includes authority, county, district, and municipality.

(13) "Includes" denotes a partial definition.

(14) "Individual" includes the estate of an incompetent or deceased individual.

(15) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(16) "Means" denotes an exhaustive definition.

(17) "Notice" has the meaning provided in RCW 23B.01.410.

(18) "Person" includes an individual and an entity.

(19) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(20) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(21) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute, and that has more than three hundred holders of record of its shares.

(22) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(23) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under

RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(24) "Shares" means the units into which the proprietary interests in a corporation are divided.

(25) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(26) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(27) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(28) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(29) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group. [1991 c 269 § 35; 1991 c 72 § 28; 1989 c 165 § 14.]

**Reviser's note:** This section was amended by 1991 c 72 § 28 and by 1991 c 269 § 35, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**23B.01.410 Notice.** (1) Notice under this title must be in writing except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

(2) Written notice may be transmitted by: Mail, private carrier or personal delivery; telegraph or teletype; or telephone, wire or wireless equipment which transmits a facsimile of the notice. If these forms of written notice are impracticable, written notice may be transmitted by an advertisement in a newspaper of general circulation in the area where published. Oral notice may be communicated in person or by telephone, wire or wireless equipment which does not transmit a facsimile of the notice. If these forms of oral notice are impracticable, oral notice may be communicated by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective when mailed, if mailed with first-class postage prepaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(4) Written notice to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the

case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) If expressly authorized by the articles of incorporation or bylaws, and if notice is sent to the person's address, telephone number, or other number appearing on the records of the corporation, when dispatched by teletype, teletype, or facsimile equipment;

(b) When received;

(c) Except as provided in subsection (3) of this section, five days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid and correctly addressed; or

(d) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice is effective when communicated if communicated in a comprehensible manner.

(7) If this title prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this title, those requirements govern. [1991 c 72 § 29; 1990 c 178 § 2; 1989 c 165 § 15.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

**23B.01.510 Foreign corporations—Notice of due date for payment of annual license fee and filing annual report.** Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall mail to each foreign corporation qualified to do business in this state, by first-class mail addressed to its registered office within this state, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if it shall fail to pay its annual license fee or to file its annual report its certificate of authority to transact business within this state may be revoked. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligations to pay the annual license fees and to obtain or file the annual reports required by this title. [1990 c 178 § 3; 1989 c 165 § 17.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

**23B.01.570 Penalty for nonpayment of annual corporate license fees and failure to file a substantially complete annual report—Payment of delinquent fees.** In the event any corporation, foreign or domestic, fails to file a full and complete initial report under RCW 23B.02.050(4) and 23B.16.220(3) or does business in this state without having paid its annual corporate license fee and without having filed a substantially complete annual report under RCW 23B.16.220(1) when either is due, there shall become due and owing the state of Washington a penalty of twenty-five dollars.

A corporation organized under this title may at any time prior to its dissolution as provided in RCW 23B.14.200, and a foreign corporation qualified to do business in this state may at any time prior to the revocation of its certificate of authority as provided in RCW 23B.15.300, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty specified in this section. [1991 c 72 § 30; 1989 c 165 § 23.]

**23B.01.580 Waiver of penalty fees.** The secretary of state may, where exigent or mitigating circumstances are presented, waive penalty fees due from any licensed corporation previously in good standing which would otherwise be penalized or lose its active status. Any corporation desiring to seek relief under this section shall, within fifteen days of discovery by corporate officials of the missed filing or lapse, notify the secretary of state in writing. The notification shall include the name and mailing address of the corporation, the corporate officer to whom correspondence should be sent, and a statement under oath by a responsible corporate officer, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary of state shall investigate the circumstances of the missed filing or lapse. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the corporation has demonstrated good faith and a reasonable attempt to comply with the applicable corporate license statutes of this state, the secretary of state may issue an order allowing relief from the penalty. If the secretary of state determines the request does not comply with the requirements for relief, the secretary of state shall deny the relief and state the reasons for the denial. Any denial of relief by the secretary of state is not reviewable notwithstanding the provisions of chapter 34.05 RCW. [1990 c 178 § 4; 1989 c 165 § 24.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

## Chapter 23B.02 INCORPORATION

### Sections

23B.02.050 Organization of corporation.

**23B.02.050 Organization of corporation.** (1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect directors and complete the organization of the corporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this title to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(3) An organizational meeting may be held in or out of this state.

(4) A corporation's initial report containing the information described in RCW 23B.16.220(1) must be delivered to the secretary of state within one hundred twenty days of the date on which the corporation's articles of incorporation were filed. [1991 c 72 § 31; 1989 c 165 § 30.]

### Chapter 23B.04

#### NAME

##### Sections

23B.04.010 Corporate name.

**23B.04.010 Corporate name.** (1) A corporate name:

(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.;"

(b) Must not contain language stating or implying that the corporation is organized for a purpose other than those permitted by RCW 23B.03.010 and its articles of incorporation;

(c) Must not contain any of the following words or phrases:

"Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation incorporated or authorized to transact business in this state;

(ii) A corporate name reserved or registered under RCW 23B.04.020 or 23B.04.030;

(iii) The fictitious name adopted pursuant to RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The corporate name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state; and

(v) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter \*25.08 or 25.10 RCW.

(2) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names

described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, holder, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, or of a domestic or foreign limited partnership, that is used in this state if the other corporation is incorporated or authorized to transact business in this state, or if the limited partnership is formed or authorized to transact business in this state, and the proposed user corporation:

(a) Has merged with the other corporation or limited partnership; or

(b) Has been formed by reorganization of the other corporation.

(4) This title does not control the use of assumed business names or "trade names."

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in the designation, under subsection (1)(a) of this section, used for the same name;

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name. [1991 c 269 § 36; 1989 c 165 § 37.]

**Reviser's note:** (1) This section was amended by 1991 c 72 § 32 and by 1991 c 269 § 36, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

\* (2) Chapter 25.08 RCW was repealed by 1981 c 51 § 72, effective January 1, 1982. See RCW 25.10.670 for application of chapter 25.10 RCW to previously existing partnerships.

### Chapter 23B.06

#### SHARES AND DISTRIBUTIONS

##### Sections

23B.06.400 Distributions to shareholders.

**23B.06.400 Distributions to shareholders.** (1) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (2) of this section.

(2) No distribution may be made if, after giving it effect:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of

incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(3) For purposes of determinations under subsection (2) of this section:

(a) The board of directors may base a determination that a distribution is not prohibited under subsection (2) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances; and

(b) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section.

(4) The effect of a distribution under subsection (2) of this section is measured:

(a) In the case of a distribution of indebtedness, the terms of which provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made; or

(b) In the case of any other distribution:

(i) If the distribution is by purchase, redemption, or other acquisition of the corporation's shares, the effect of the distribution is measured as of the earlier of the date any money or other property is transferred or debt incurred by the corporation, or the date the shareholder ceases to be a shareholder with respect to the acquired shares;

(ii) If the distribution is of indebtedness other than that described in subsection (4) (a) and (b)(i) of this section, the effect of the distribution is measured as of the date the indebtedness is distributed; and

(iii) In all other cases, the effect of the distribution is measured as of the date the distribution is authorized if payment occurs within one hundred twenty days after the date of authorization, or the date the payment is made if it occurs more than one hundred twenty days after the date of authorization.

(5) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent provided otherwise by agreement.

(6) In circumstances to which this section and related sections of this title are applicable, such provisions supersede the applicability of any other statutes of this state with respect to the legality of distributions. [1990 c 178 § 10; 1989 c 165 § 59.]

**Effective date—1990 c 178:** See note following RCW 23B.01.220.

## Chapter 23B.07 SHAREHOLDERS

### Sections

23B.07.040	Action without meeting.
23B.07.060	Waiver of notice.
23B.07.270	Greater or lesser quorum or voting requirements.

**23B.07.040 Action without meeting.** (1) Action required or permitted by this title to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (1) of this section.

(3) A shareholder may withdraw consent only by delivering a written notice of withdrawal to the corporation prior to the time when all consents have been delivered to the corporation.

(4) Action taken under this section is effective when all consents have been delivered to the corporation, unless the consent specifies a later effective date.

(5) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(6) If this title requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least ten days before the action is taken. The notice must contain or be accompanied by the same material that, under this title, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to such shareholders for action. [1991 c 72 § 33; 1989 c 165 § 63.]

**23B.07.060 Waiver of notice.** (1) A shareholder may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time of the meeting that is the subject of such notice, or in the case of notice required by RCW 23B.07.040(6), before or after the action to be taken by written consent is effective. Except as provided by subsections (2) and (3) of this section, the waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) A shareholder's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(3) A shareholder waives objection to consideration of a particular matter at a meeting that is not within the

purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented. [1991 c 72 § 34; 1989 c 165 § 65.]

**23B.07.270 Greater or lesser quorum or voting requirements.** (1) The articles of incorporation may provide for a greater or lesser quorum, but not less than one-third of the votes entitled to be cast, for shareholders, or voting groups of shareholders, than is provided for by this title.

(2) The articles of incorporation may provide for a greater voting requirement for shareholders, or voting groups of shareholders, than is provided for by this title.

(3) Under RCW 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020, the articles of incorporation may provide for a lesser vote than is otherwise prescribed in those sections or for a lesser vote by separate voting groups, so long as the vote provided for each voting group entitled to vote separately on the plan or transaction is not less than a majority of all the votes entitled to be cast on the plan or transaction by that voting group.

(4) Except as provided in subsection (5) of this section, an amendment to the articles of incorporation that adds, changes, or deletes a greater or lesser quorum or voting requirement for a particular corporate action must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect for the corporate action.

(5) An amendment to the articles of incorporation that adds, changes, or deletes a greater or lesser quorum or voting requirement for a merger, share exchange, sale of substantially all assets, or dissolution must be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect for the particular corporate action, or the quorum and voting requirements then in effect for amendments to articles of incorporation, whichever is greater. [1990 c 178 § 11; 1989 c 165 § 75.]

**Effective date—1990 c 178:** See note following RCW 23B.01.220.

## Chapter 23B.08 DIRECTORS AND OFFICERS

### Sections

23B.08.240 Quorum and voting.

**23B.08.240 Quorum and voting.** (1) Unless the articles of incorporation or bylaws require a greater or lesser number, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) Notwithstanding subsection (1) of this section, a quorum of a board of directors may in no event be less than one-third of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the

act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors when action is taken is deemed to have assented to the action taken unless: (a) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding it or transacting business at the meeting; (b) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (c) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation within a reasonable time after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken. [1991 c 72 § 35; 1989 c 165 § 95.]

## Chapter 23B.10 AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

### Sections

23B.10.070 Restated articles of incorporation.

**23B.10.070 Restated articles of incorporation.** (1) Any officer of the corporation may restate its articles of incorporation at any time.

(2) A restatement may include one or more amendments to the articles of incorporation. If the restatement includes an amendment not requiring shareholder approval, it must be adopted by the board of directors. If the restatement includes an amendment requiring shareholder approval, it must be adopted in accordance with RCW 23B.10.030.

(3) If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with RCW 23B.07.050. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles of incorporation.

(4) A corporation restating its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(a) If the restatement does not include an amendment to the articles of incorporation, a statement to that effect;

(b) If the restatement contains an amendment to the articles of incorporation not requiring shareholder approval, a statement that the board of directors adopted the restatement and the date of such adoption;

(c) If the restatement contains an amendment to the articles of incorporation requiring shareholder approval, the information required by RCW 23B.10.060; and

(d) Both the articles of restatement and the certificate must be executed.

(5) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

(6) The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (4) of this section. [1991 c 72 § 36; 1989 c 165 § 126.]

### Chapter 23B.11

## MERGER AND SHARE EXCHANGE

#### Sections

23B.11.080	Merger with limited partnership.
23B.11.090	Articles of merger—Limited partnership.
23B.11.100	Effect of merger with limited partnership.
23B.11.110	Merger with foreign limited partnerships and corporations—Effect.

**23B.11.080 Merger with limited partnership.** (1) One or more domestic corporations may merge with one or more limited partnerships if:

(a) The board of directors of each corporation adopts and the shareholders of each corporation approve, if approval would be necessary, the plan of merger as required by RCW 23B.11.030; and

(b) The partners of each limited partnership approve the plan of merger as required by RCW 25.10.810.

(2) The plan of merger must set forth:

(a) The name of each corporation and limited partnership planning to merge and the name of the surviving corporation or limited partnership into which each other corporation or limited partnership plans to merge; .

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation and the partnership interests of each limited partnership into shares, partnership interests, obligations or other securities of the surviving corporation or limited partnership, or into cash or other property, including shares, obligations, or securities of any other corporation, and partnership interests, obligations, or securities of any other limited partnership, in whole or in part.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of the surviving corporation;

(b) Amendments to the certificate of limited partnership of the surviving limited partnership; and

(c) Other provisions relating to the merger. [1991 c 269 § 38.]

**23B.11.090 Articles of merger—Limited partnership.** After a plan of merger for one or more corporations and one or more limited partnerships is approved by the shareholders of each corporation (or adopted by the board of directors of any corporation for which shareholder approval is not required), and is approved by the partners for each limited partnership as required by RCW 25.10.810, the surviving entity must:

(1) If the surviving entity is a corporation, file with the secretary of state articles of merger setting forth:

(a) The plan of merger;

(b) A statement that the merger was duly approved by the shareholders of each corporation pursuant to RCW 23B.11.030 (or a statement that shareholder approval was not required for a merging corporation); and

(c) A statement that the merger was duly approved by the partners of each limited partnership pursuant to RCW 25.10.810.

(2) If the surviving entity is a limited partnership, comply with the requirements in RCW 25.10.820. [1991 c 269 § 39.]

**23B.11.100 Effect of merger with limited partnership.** When a merger of one or more corporations and one or more limited partnerships takes effect, and a corporation is the surviving entity:

(1) Every other corporation and every limited partnership party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation, and every limited partnership, ceases;

(2) The title to all real estate and other property owned by each corporation and limited partnership party to the merger is vested in the surviving corporation without reversion or impairment;

(3) The surviving corporation has all the liabilities of each corporation and limited partnership party to the merger;

(4) A proceeding pending against any corporation or limited partnership party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation or limited partnership whose existence ceased;

(5) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger;

(6) The former holders of the shares of every corporation party to the merger are entitled only to the rights provided in the plan of merger or to their rights under chapter 23B.13 RCW; and

(7) The former holders of partnership interests of every limited partnership party to the merger are entitled only to the rights provided in the plan of merger or to their rights under chapter 25.10 RCW. [1991 c 269 § 40.]

**23B.11.110 Merger with foreign limited partnerships and corporations—Effect.** (1) One or more foreign limited partnerships and one or more foreign corporations may merge with one or more domestic corporations, provided that:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was organized and the law of the state or country under which each foreign corporation was incorporated and each foreign limited partnership or foreign corporation complies with that law in effecting the merger;

(b) If the surviving entity is a foreign or domestic corporation, that corporation complies with RCW 23B.11.090;

(c) If the surviving entity is a foreign or domestic limited partnership, that limited partnership complies with RCW 25.10.820;

(d) Each domestic corporation complies with RCW 23B.11.080; and

(e) Each domestic limited partnership complies with RCW 25.10.810.

(2) Upon the merger taking effect, a surviving foreign corporation or limited partnership is deemed:

(a) To appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders or partners of each domestic corporation or domestic limited partnership party to the merger; and

(b) To agree that it will promptly pay to the dissenting shareholders or partners of each domestic corporation or domestic limited partnership party to the merger the amount, if any, to which they are entitled under chapter 23B.13 RCW, in the case of dissenting shareholders, or under chapter 25.10 RCW, in the case of dissenting partners. [1991 c 269 § 41.]

### Chapter 23B.12 SALE OF ASSETS

#### Sections

23B.12.010 Sale of assets in regular course of business and mortgage of assets.

**23B.12.010 Sale of assets in regular course of business and mortgage of assets.** (1) A corporation may on the terms and conditions and for the consideration determined by the board of directors:

(a) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business; or

(b) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of its property whether or not in the usual and regular course of business.

(2) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (1) of this section is not required. [1990 c 178 § 12; 1989 c 165 § 138.]

**Effective date—1990 c 178:** See note following RCW 23B.01.220.

### Chapter 23B.13 DISSENTERS' RIGHTS

#### Sections

23B.13.020 Right to dissent.

**23B.13.020 Right to dissent.** (1) A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

[1990-91 RCW Supp—page 372]

(a) Consummation of a plan of merger to which the corporation is a party (i) if shareholder approval is required for the merger by RCW 23B.11.030, 23B.11.080, or the articles of incorporation and the shareholder is entitled to vote on the merger, or (ii) if the corporation is a subsidiary that is merged with its parent under RCW 23B.11.040;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale;

(d) An amendment of the articles of incorporation that materially reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under RCW 23B.06.040; or

(e) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for the shareholder's shares under this chapter may not challenge the corporate action creating the shareholder's entitlement unless the action fails to comply with the procedural requirements imposed by this title, RCW 25.10.900 through 25.10.955, the articles of incorporation, or the bylaws, or is fraudulent with respect to the shareholder or the corporation.

(3) The right of a dissenting shareholder to obtain payment of the fair value of the shareholder's shares shall terminate upon the occurrence of any one of the following events:

(a) The proposed corporate action is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the corporate action; or

(c) The shareholder's demand for payment is withdrawn with the written consent of the corporation. [1991 c 269 § 37; 1989 c 165 § 141.]

### Chapter 23B.14 DISSOLUTION

#### Sections

23B.14.200 Administrative dissolution—Grounds.  
23B.14.340 Survival of remedy after dissolution.

**23B.14.200 Administrative dissolution—Grounds.** The secretary of state may administratively dissolve a corporation under RCW 23B.14.210 if:

(1) The corporation does not pay any license fees or penalties, imposed by this title, when they become due;

(2) The corporation does not deliver its completed initial report or annual report to the secretary of state when it is due;

(3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the secretary of state that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;

(5) The corporation's period of duration stated in its articles of incorporation expired after July 1, 1990; or

(6) The corporation's period of duration stated in its articles of incorporation expired prior to July 1, 1990, but the corporation has timely paid all license fees imposed by this title, has timely filed annual reports with the secretary of state, has never been without a registered agent or registered office in this state for sixty days or more, and has never failed to notify the secretary of state of changes in a registered agent or registered office within sixty days of such change. [1991 c 72 § 37; 1990 c 178 § 5; 1989 c 165 § 160.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

**23B.14.340 Survival of remedy after dissolution.** The dissolution of a corporation either: (1) By the issuance of a certificate of dissolution by the secretary of state, (2) by a decree of court, or (3) by expiration of its period of duration shall not take away or impair any remedy available against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding against the corporation may be defended by the corporation in its corporate name. [1990 c 178 § 6; 1989 c 165 § 167.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

## Chapter 23B.15 FOREIGN CORPORATIONS

### Sections

23B.15.010	Authority to transact business required.
23B.15.020	Consequences of transacting business without authority.
23B.15.040	Amended certificate of authority.
23B.15.300	Revocation—Grounds.

### **23B.15.010 Authority to transact business required.**

(1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation may not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the

settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;

(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;

(k) Transacting business in interstate commerce; or

(l) Owning and controlling a subsidiary corporation incorporated in or transacting business within this state.

(3) The list of activities in subsection (2) of this section is not exhaustive. [1990 c 178 § 7; 1989 c 165 § 169.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

**23B.15.020 Consequences of transacting business without authority.** (1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) A foreign corporation which transacts business in this state without a certificate of authority is liable to this state, for the years or parts thereof during which it

transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this title upon such corporation had it applied for and received a certificate of authority to transact business in this state as required by this title and thereafter filed all reports required by this title, plus all penalties imposed by this title for failure to pay such fees.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state. [1990 c 178 § 8; 1989 c 165 § 170.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

**23B.15.040 Amended certificate of authority.** (1) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the secretary of state if it changes:

- (a) Its corporate name; or
- (b) The period of its duration.

(2) A foreign corporation may apply for an amended certificate of authority by delivering an application to the secretary of state for filing that sets forth:

(a) The name of the foreign corporation and the name in which the corporation is authorized to transact business in Washington, if different;

(b) The name of the state or country under whose law it is incorporated;

(c) The date it was authorized to transact business in this state;

(d) A statement of the change or changes being made;

(e) In the event the change or changes include a name change to a name that does not meet the requirements of RCW 23B.15.060, a fictitious name for use in Washington, and a copy of the resolution of the board of directors, certified by the corporation's secretary, adopting the fictitious name; and

(f) A copy of the document filed in the state or country of incorporation showing that jurisdiction's "filed" stamp. [1991 c 72 § 38; 1989 c 165 § 172.]

**23B.15.300 Revocation—Grounds.** The secretary of state may revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver its completed initial report or annual report to the secretary of state when it is due;

(2) The foreign corporation does not pay any license fees or penalties, imposed by this title, when they become due;

(3) The foreign corporation is without a registered agent or registered office in this state;

(4) The foreign corporation does not inform the secretary of state under RCW 23B.15.080 or 23B.15.090 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued;

(5) An incorporator, director, officer, or agent of the foreign corporation signed a document knowing it was

false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(6) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger. [1991 c 72 § 39; 1990 c 178 § 9; 1989 c 165 § 180.]

**Effective date**—1990 c 178: See note following RCW 23B.01.220.

## Chapter 23B.16 RECORDS AND REPORTS

### Sections

23B.16.010 Corporate records.

23B.16.220 Initial and annual reports for secretary of state.

**23B.16.010 Corporate records.** (1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors exercising the authority of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;

(d) The financial statements described in RCW 23B.16.200(1), for the past three years;

(e) All written communications to shareholders generally within the past three years;

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its initial report or most recent annual report delivered to the secretary of state under RCW 23B.16.220. [1991 c 72 § 40; 1989 c 165 § 182.]

**23B.16.220 Initial and annual reports for secretary of state.** (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing initial and annual reports that set forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The street address of its registered office and the name of its registered agent at that office in this state;

(c) In the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated;

(d) The address of the principal place of business of the corporation in this state;

(e) The names and addresses of its directors, if the corporation has dispensed with or limited the authority of its board of directors pursuant to RCW 23B.08.010 or analogous authority, the names and addresses of persons who will perform some or all of the duties of the board of directors;

(f) A brief description of the nature of its business; and

(g) The names and addresses of its chairperson of the board of directors, if any, president, secretary, and treasurer, or of individuals, however designated, performing the functions of such officers.

(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the corporation.

(3) A corporation's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which the articles of incorporation for a domestic corporation were filed, or on which a foreign corporation's certificate of authority was filed. Subsequent annual reports must be delivered to the secretary of state on, or prior to, the date on which the domestic or foreign corporation is required to pay its annual corporate license fee, and at such additional times as the corporation elects. [1991 c 72 § 41; 1989 c 165 § 187.]

## Title 24

### CORPORATIONS AND ASSOCIATIONS (NONPROFIT)

#### Chapters

- 24.03** Washington nonprofit corporation act.  
**24.06** Nonprofit miscellaneous and mutual corporations act.  
**24.36** Fish marketing act.

#### Chapter 24.03

#### WASHINGTON NONPROFIT CORPORATION ACT

##### Sections

- 24.03.035 General powers.  
 24.03.070 Bylaws.  
 24.03.388 Foreign corporations—Fees for application for reinstatement—Annual reports.  
 24.03.405 Fees for filing documents and issuing certificates.

**24.03.035 General powers.** Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money or credit to its employees other than its officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer or other person in the manner and to the extent provided in RCW 23B.08.500 through 23B.08.600, as now existing or hereafter amended.

(15) To make guarantees respecting the contracts, securities, or obligations of any person (including, but not limited to, any member, any affiliated or unaffiliated individual, domestic or foreign, profit or not for profit,

corporation, partnership, association, joint venture or trust) if such guarantee may reasonably be expected to benefit, directly or indirectly, the guarantor corporation. As to the enforceability of the guarantee, the decision of the board of directors that the guarantee may be reasonably expected to benefit, directly or indirectly, the guarantor corporation shall be binding in respect to the issue of benefit to the guarantor corporation.

(16) To pay pensions and establish pension plans, pension trusts, and other benefit plans for any or all of its directors, officers, and employees.

(17) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other enterprise.

(18) To be a trustee of a charitable trust, to administer a charitable trust and to act as executor in relation to any charitable bequest or devise to the corporation. This subsection shall not be construed as conferring authority to engage in the general business of trusts nor in the business of trust banking.

(19) To cease its corporate activities and surrender its corporate franchise.

(20) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized. [1991 c 72 § 42; 1986 c 240 § 5; 1967 c 235 § 8.]

*Unauthorized assumption of corporate power: RCW 24.03.470.*

**24.03.070 Bylaws.** The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation. The board may adopt emergency bylaws in the manner provided by RCW 23B.02.070. [1991 c 72 § 43; 1986 c 240 § 13; 1967 c 235 § 15.]

**24.03.388 Foreign corporations—Fees for application for reinstatement—Annual reports.** (1) An application processing fee as provided in RCW 24.03.405 shall be charged for an application for reinstatement under RCW 24.03.386.

(2) An application processing fee as provided in RCW 24.03.405 shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall file all annual reports and pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, including the reinstatement year. [1991 c 223 § 3; 1987 c 117 § 2; 1986 c 240 § 58.]

*Effective date—1991 c 223: See note following RCW 24.03.405.*

**24.03.405 Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for:

(1) Filing articles of incorporation or an application for reinstatement under RCW 24.03.386, thirty dollars.

(2) Filing articles of amendment or restatement or an amendment or supplement to an application for reinstatement, twenty dollars.

(3) Filing articles of merger or consolidation, twenty dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these, ten dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.

(5) Filing articles of dissolution, no fee.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state, twenty dollars.

(8) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(9) Filing a certificate by a foreign corporation of the appointment of a registered agent, ten dollars. A separate fee for filing such certificate shall not be charged if the statement appears in conjunction with the filing of the annual report.

(10) Filing a certificate of election adopting the provisions of chapter 24.03 RCW, twenty dollars.

(11) Filing an application to reserve a corporate name, twenty dollars.

(12) Filing a notice of transfer of a reserved corporate name, twenty dollars.

(13) Filing a name registration, twenty dollars per year, or part thereof.

(14) Filing an annual report of a domestic or foreign corporation, ten dollars.

(15) Filing any other statement or report authorized for filing under this chapter, ten dollars. [1991 c 223 § 1; 1987 c 117 § 5; 1986 c 240 § 55; 1982 c 35 § 110; 1981 c 230 § 5; 1969 ex.s. c 163 § 5; 1967 c 235 § 82.]

*Effective date—1991 c 223: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on July 1, 1991." [1991 c 223 § 4.]*

*Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.*

## Chapter 24.06

### NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

#### Sections

24.06.450  
24.06.905

Fees for filing documents and issuing certificates.  
Existing liabilities not terminated—Continuation of corporate existence—Application of chapter.

**24.06.450 Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for:

- (1) Filing articles of incorporation, thirty dollars.
- (2) Filing articles of amendment or restatement, twenty dollars.
- (3) Filing articles of merger or consolidation, twenty dollars.
- (4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these, ten dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.
- (5) Filing articles of dissolution, no fee.
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.
- (7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state, twenty dollars.
- (8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, twenty dollars.
- (9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, twenty dollars.
- (10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.
- (11) Filing a certificate by a foreign corporation of the appointment of a registered agent, ten dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.
- (12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, ten dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.
- (13) Filing an application to reserve a corporate name, twenty dollars.
- (14) Filing a notice of transfer of a reserved corporate name, twenty dollars.
- (15) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, ten dollars. [1991 c 223 § 2; 1982 c 35 § 154; 1981 c 230 § 6; 1973 c 70 § 2; 1969 ex.s. c 120 § 90.]

**Effective date**—1991 c 223: See note following RCW 24.03.405.

**Intent**—**Severability**—**Effective dates**—**Application**—1982 c 35: See notes following RCW 43.07.160.

**24.06.905 Existing liabilities not terminated—Continuation of corporate existence—Application of chapter.** The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any

liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective; and any corporation existing under any prior law which expires on or before the date when this chapter takes effect shall continue its corporate existence: **PROVIDED**, That this chapter shall apply prospectively to all existing corporations which do not otherwise qualify under the provisions of Titles 23B and 24 RCW, to the extent permitted by the Constitution of this state and of the United States. [1991 c 72 § 44; 1969 ex.s. c 120 § 105.]

**Chapter 24.36  
FISH MARKETING ACT**

Sections	
24.36.050	General laws relating to corporations for profit applicable.
24.36.090	Merger, consolidation of associations authorized—Procedure.

**24.36.050 General laws relating to corporations for profit applicable.** The provisions of Title 23B RCW and all powers and rights thereunder, apply to associations, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. [1991 c 72 § 45; 1959 c 312 § 5.]

**24.36.090 Merger, consolidation of associations authorized—Procedure.** Any two or more associations may be merged into one such constituent association or consolidated into a new association. Such merger or consolidation shall be made in the manner prescribed by RCW 23B.07.050 and chapter 23B.11 RCW for domestic corporations. [1991 c 72 § 46; 1983 c 3 § 28; 1959 c 312 § 9.]

**Title 25  
PARTNERSHIPS**

<b>Chapters</b>	
<b>25.10</b>	<b>Limited partnerships.</b>

**Chapter 25.10  
LIMITED PARTNERSHIPS**

Sections	
25.10.020	Name.
25.10.030	Reservation of name.
25.10.100	Cancellation of certificate.
25.10.110	Execution of documents.
25.10.130	Filing in office of secretary of state.
25.10.140	Liability for false statement in certificate.
25.10.160	Delivery of certificates to limited partners.
25.10.210	Information.
25.10.370	Limitations on distributions.
25.10.380	Repealed.
25.10.440	Nonjudicial dissolution.
25.10.453	Administrative dissolution—Commencement of proceeding.
25.10.455	Administrative dissolution—Notice—Opportunity to correct deficiencies.

25.10.457	Administrative dissolution—Reinstatement—Application—When effective.
25.10.553	Revocation of registration—Commencement of proceeding.
25.10.555	Revocation of registration—Notice—Opportunity to correct deficiencies.
25.10.600	Establishment of filing fees and miscellaneous charges.

ARTICLE 13  
MERGERS

25.10.800	Merger—Plan—Effective date.
25.10.810	Merger—Plan—Approval.
25.10.820	Articles of merger—Filing.
25.10.830	Effect of merger.
25.10.840	Merger—Foreign and domestic.

ARTICLE 14  
DISSENTERS' RIGHTS

25.10.900	Definitions.
25.10.905	Partner—Dissent—Payment of fair value.
25.10.910	Dissenters' rights—Notice—Timing.
25.10.915	Partner—Dissent—Voting restriction.
25.10.920	Partners—Dissenters' notice—Requirements.
25.10.925	Partner—Payment demand—Entitlement.
25.10.930	Partnership interests—Transfer restrictions.
25.10.935	Payment of fair value—Requirements for compliance.
25.10.940	Merger—Not effective within sixty days—Transfer restrictions.
25.10.945	Dissenter's estimate of fair value—Notice.
25.10.950	Unsettled demand for payment—Proceeding—Parties—Appraisers.
25.10.955	Unsettled demand for payment—Costs—Fees and expenses of counsel.

**25.10.020 Name.** (1) The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

(a) Shall contain the words "limited partnership" or the abbreviation "L.P.";

(b) May not contain the name of a limited partner unless (i) it is also the name of a general partner, or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(c) May not contain any of the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more of the words "building", "savings", "loan", "home", "association" and "society"; or any other words or phrases prohibited by any statute of this state;

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The name or reserved name of a foreign or domestic limited partnership;

(ii) The corporate name of a corporation incorporated or authorized to transact business in this state;

(iii) A corporate name reserved or registered under RCW 23B.04.020 or 23B.04.030;

(iv) The fictitious name adopted pursuant to RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable; and

(v) The corporate name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state.

(2) A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other limited partnership, corporation, or holder consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited partnership; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A limited partnership may use the name, including the fictitious name, of another domestic or foreign limited partnership or corporation that is used in this state if the other limited partnership or corporation is organized, incorporated, or authorized to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other limited partnership or corporation; or

(b) Results from reorganization with the other limited partnership or corporation.

(4) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in the designation, under subsection (1)(a) of this section, used for the same name;

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(5) This title does not control the use of assumed business names or "trade names." [1991 c 269 § 1; (1991 c 72 § 47 repealed by 1991 1st sp.s. c 11 § 2); 1987 c 55 § 2; 1981 c 51 § 2.]

*Name of foreign limited partnership: RCW 25.10.510.*

**25.10.030 Reservation of name.** (1) The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this state and to adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of

state finds that the name is available for use by a domestic or foreign limited partnership, he or she shall reserve the name for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and shall be nonrenewable.

The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee. [1991 c 269 § 2; 1981 c 51 § 3.]

**25.10.100 Cancellation of certificate.** (1) Upon the dissolution and completion of winding up of a limited partnership or at any time there are no limited partners, duplicate originals of a certificate of cancellation shall be filed with the secretary of state and set forth:

- (a) The name of the limited partnership;
  - (b) The date and place of filing of its original certificate of limited partnership;
  - (c) The reason for dissolution;
  - (d) The effective date, which shall be a later date certain, of cancellation if it is not to be effective upon the filing of the certificate; and
  - (e) Any other information the person filing the certificate determines.
- (2) A certificate of limited partnership shall be canceled upon the effective date of a certificate of cancellation.
- (3) A certificate of limited partnership for a domestic limited partnership which is not the surviving entity in a merger shall be canceled upon the effective date of the merger. [1991 c 269 § 3; 1987 c 55 § 7; 1981 c 51 § 10.]

**25.10.110 Execution of documents.** (1) Each document required by this article to be filed in the office of the secretary of state shall be executed in the following manner:

- (a) Each original certificate of limited partnership must be signed by all general partners named therein;
- (b) A certificate of amendment or restatement must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner;
- (c) A certificate of cancellation must be signed by all general partners or the limited partners winding up the partnership pursuant to RCW 25.10.460;
- (d) If a surviving domestic limited partnership is filing articles of merger, the articles of merger must be signed by at least one general partner of the domestic limited partnership, or if the articles of merger are being filed by a surviving foreign limited partnership or by a corporation, the articles of merger must be signed by a person authorized by such foreign limited partnership or corporation; and
- (e) A foreign limited partnership's application for a certificate of authority must be signed by one of its general partners.

(2) Any person may sign a certificate, articles of merger, or partnership agreement by an attorney-in-

fact: PROVIDED, That each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by a partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true. [1991 c 269 § 4; 1987 c 55 § 8; 1981 c 51 § 11.]

**25.10.130 Filing in office of secretary of state.** (1) Two signed copies of the certificate of limited partnership and of any certificates of amendment, restatement, or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law the secretary of state shall:

- (a) Endorse on each duplicate original the word "Filed" and the effective date of the filing;
- (b) File one duplicate original; and
- (c) Return the other duplicate original to the person who filed it or the person's representative.

(2) Upon the filing of a certificate of amendment or restatement, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended or restated as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled. [1991 c 269 § 5; 1987 c 55 § 10; 1982 c 35 § 178; 1981 c 51 § 13.]

**Intent—Severability—Effective dates—Application—1982 c 35:** See notes following RCW 43.07.160.

**25.10.140 Liability for false statement in certificate.** If any certificate of limited partnership or certificate of amendment, restatement, or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under RCW 25.10.120. [1991 c 269 § 6; 1987 c 55 § 11; 1981 c 51 § 14.]

**25.10.160 Delivery of certificates to limited partners.**

Upon the return by the secretary of state pursuant to RCW 25.10.130 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment, restatement, or cancellation to each limited partner unless the partnership agreement provides otherwise. [1991 c 269 § 7; 1987 c 55 § 13; 1981 c 51 § 16.]

**25.10.210 Information.** Each limited partner or limited partner's agent or attorney has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by RCW 25.10.050; and

(2) Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal income tax returns and state business and occupation tax return for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable. [1991 c 269 § 10; 1987 c 55 § 17; 1981 c 51 § 21.]

**25.10.370 Limitations on distributions.** (1) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, (a) the limited partnership would not be able to pay its debts as they become due in the usual course of business, or (b) all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

(2)(a) A limited partner who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the limited partnership for the amount of the distribution.

(b) A limited partner who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. This subsection (2)(b) shall not affect any obligation or liability of a limited partner under a partnership agreement or other applicable law for the amount of a distribution.

(3) A limited partner who receives a distribution from a limited partnership shall have no liability under this chapter for the amount of the distribution after the expiration of three years from the date of the distribution, except to the extent such limited partner shall have

agreed in writing to extend liability beyond the expiration of the three-year period. [1991 c 269 § 29; 1987 c 55 § 28; 1981 c 51 § 37.]

**25.10.380 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**25.10.440 Nonjudicial dissolution.** A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership;

(2) Upon the happening of events specified in the partnership agreement;

(3) Written consent of all partners;

(4) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within ninety days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired;

(5) Entry of a decree of judicial dissolution under RCW 25.10.450; or

(6) Administrative dissolution under RCW 25.10.455. [1991 c 269 § 30; 1987 c 55 § 32; 1981 c 51 § 44.]

**25.10.453 Administrative dissolution—Commencement of proceeding.** The secretary of state may commence a proceeding under RCW 25.10.455 to administratively dissolve a limited partnership if:

(1) An amendment to the certificate of limited partnership required by RCW 25.10.090(2)(c) is not filed when specified by that provision;

(2) The limited partnership is without a registered agent or registered office in this state for sixty days or more; or

(3) The limited partnership does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued. [1991 c 269 § 31.]

**25.10.455 Administrative dissolution—Notice—Opportunity to correct deficiencies.** (1) If the secretary of state determines that one or more grounds exist under RCW 25.10.453 for dissolving a limited partnership, the secretary of state shall give the limited partnership written notice of the determination by first class mail, postage prepaid reciting the grounds therefor. Notice shall be sent to the address of the office for records and address of the agent for service of process contained in the certificate having this information which is most recently filed with the secretary of state.

(2) If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable

satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is sent, the limited partnership is thereupon dissolved, the secretary of state shall give the limited partnership written notice of the dissolution that recites the ground or grounds therefor and its effective date.

(3) A limited partnership administratively dissolved continues its limited partnership existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent. [1991 c 269 § 32.]

**25.10.457 Administrative dissolution—Reinstatement—Application—When effective.** (1) A limited partnership administratively dissolved under RCW 25.10.455 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:

(a) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the limited partnership's name satisfies the requirements of RCW 25.10.020.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited partnership and give the limited partnership written notice, as provided in RCW 25.10.455(1) of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited partnership must file with its application for reinstatement an amendment to its certificate of limited partnership reflecting a change of name.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume carrying on its business as if the administrative dissolution had never occurred.

(4) If an application for reinstatement is not made within the two-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited partnership's certificate of limited partnership. [1991 c 269 § 33.]

**25.10.553 Revocation of registration—Commencement of proceeding.** The secretary of state may commence a proceeding under \*section 45 of this act to revoke registration of a foreign limited partnership authorized to transact business in this state if:

(1) The foreign limited partnership is without a registered agent or registered office in this state for sixty days or more;

(2) The foreign limited partnership does not inform the secretary of state under RCW 25.10.520 that its registered agent or registered office has changed, that its

registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance;

(3) A general partner or other agent of the foreign limited partnership signed a document knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of partnership records in the jurisdiction under which the foreign limited partnership was organized stating that the foreign limited partnership has been dissolved or its limited partnership certificate canceled. [1991 c 269 § 43.]

**\*Reviser's note:** The reference to section 45 of this act is incorrect. Section 44 of the act, codified as RCW 25.10.555, was apparently intended.

**25.10.555 Revocation of registration—Notice—Opportunity to correct deficiencies.** (1) If the secretary of state determines that one or more grounds exist under RCW 25.10.553 for revocation of a foreign limited partnership's registration, the secretary of state shall give the foreign limited partnership written notice of the determination by first class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date shall not be earlier than the date on which the notice is mailed.

(2) If the foreign limited partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is effective, the secretary of state shall revoke the foreign limited partnership's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and mail a copy to the foreign limited partnership.

(3) Documents to be mailed by the secretary of state to a foreign limited partnership for which provision is made in this section shall be sent to the foreign limited partnership at the address of the agent for service of process contained in the application or certificate of this partnership which is most recently filed with the secretary of state.

(4) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(5) The secretary of state's revocation of a foreign limited partnership's registration appoints the secretary of state the foreign limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited partnership was authorized to transact business in this state.

(6) Revocation of a foreign limited partnership's registration does not terminate the authority of the registered agent of the foreign limited partnership. [1991 c 269 § 44.]

**25.10.600 Establishment of filing fees and miscellaneous charges.** The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

- (1) Filing of a certificate of limited partnership for a domestic or foreign limited partnership;
- (2) Filing of a certificate of cancellation for a domestic or foreign limited partnership;
- (3) Filing of a certificate of amendment or restatement for a domestic or foreign limited partnership;
- (4) Filing an application to reserve or transfer a limited partnership name;
- (5) Filing any other statement or report authorized or permitted to be filed;
- (6) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations registering pursuant to Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law. [1991 c 269 § 12; 1991 c 72 § 48; 1987 c 55 § 35; 1981 c 51 § 60.]

**Reviser's note:** This section was amended by 1991 c 72 § 48 and by 1991 c 269 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

## ARTICLE 13 MERGERS

**25.10.800 Merger—Plan—Effective date.** (1) One or more domestic limited partnerships may merge with one or more domestic limited partnerships or domestic corporations pursuant to a plan of merger approved or adopted as provided in RCW 25.10.810.

- (2) The plan of merger must set forth:
  - (a) The name of each limited partnership and corporation planning to merge and the name of the surviving limited partnership or corporation into which the other limited partnership or corporation plans to merge;
  - (b) The terms and conditions of the merger; and
  - (c) The manner and basis of converting the partnership interests of each limited partnership and the shares of each corporation party to the merger into the partnership interests, shares, obligations, or other securities of the surviving or any other limited partnership or corporation or into cash or other property in whole or part.
- (3) The plan of merger may set forth:
  - (a) Amendments to the certificate of limited partnership of the surviving limited partnership;
  - (b) Amendments to the articles of incorporation of the surviving corporation; and
  - (c) Other provisions relating to the merger.
- (4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of

articles of merger. If the plan of merger specifies a delayed effective time and date, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed. [1991 c 269 § 11.]

**25.10.810 Merger—Plan—Approval.** (1) Unless otherwise provided in its partnership agreement, approval of a plan of merger by a domestic limited partnership party to a merger shall occur when the plan is approved (a) by all general partners of such limited partnership, and (b) by the limited partners or, if there is more than one class of limited partners, then by each class or group of limited partners of such limited partnership, in either case, by limited partners who own more than fifty percent of the then current percentage or other interest in the profits of such limited partnership owned by all limited partners or by the limited partners in each class or group, as appropriate.

(2) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW. [1991 c 269 § 13.]

**25.10.820 Articles of merger—Filing.** After a plan of merger is approved or adopted, the surviving limited partnership or corporation shall deliver to the secretary of state for filing articles of merger setting forth:

- (1) The plan of merger;
- (2) If the approval of any partners or shareholders of one or more limited partnerships or corporations party to the merger was not required, a statement to that effect; or
- (3) If the approval of any partners or shareholders of one or more of the limited partnerships or corporations party to the merger was required, a statement that the merger was duly approved by such partners and shareholders pursuant to RCW 25.10.810 or chapter 23B.11 RCW. [1991 c 269 § 14.]

**25.10.830 Effect of merger.** (1) When a merger takes effect:

- (a) Every other limited partnership or corporation that is party to the merger merges into the surviving limited partnership or corporation and the separate existence of every limited partnership and corporation except the surviving limited partnership or corporation ceases;
- (b) The title to all real estate and other property owned by each limited partnership and corporation party to the merger is vested in the surviving limited partnership or corporation without reversion or impairment;
- (c) The surviving limited partnership or corporation has all liabilities of each limited partnership and corporation that is party to the merger;
- (d) A proceeding pending against any limited partnership or corporation that is party to the merger may

be continued as if the merger did not occur or the surviving limited partnership or corporation may be substituted in the proceeding for the limited partnership or corporation whose existence ceased;

(e) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;

(f) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and

(g) The former holders of the partnership interests of every domestic limited partnership that is party to the merger and the former holders of the shares of every domestic corporation that is party to the merger are entitled only to the rights provided in the articles of merger or to their rights under RCW 25.10.900 through 25.10.955 or to the rights under chapter 23B.13 RCW.

(2) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.460 or pay its liabilities and distribute its assets under RCW 25.10.470. [1991 c 269 § 15.]

**25.10.840 Merger—Foreign and domestic.** (1) One or more foreign limited partnerships and one or more foreign corporations may merge with one or more domestic limited partnerships or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign limited partnership and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.10.820;

(c) Each domestic limited partnership complies with RCW 25.10.810; and

(d) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited partnership or corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting partners or shareholders of each domestic limited partnership or domestic corporation party to the merger. [1991 c 269 § 16.]

## ARTICLE 14 DISSENTERS' RIGHTS

**25.10.900 Definitions.** As used in this article:

(1) "Limited partnership" means the domestic limited partnership in which the dissenter holds or held a partnership interest, or the surviving limited partnership or corporation by merger, whether foreign or domestic, of that limited partnership.

(2) "Dissenter" means a partner who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(3) "Fair value," with respect to a dissenter's partnership interest, means the value of the partnership interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(4) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited partnership on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances. [1991 c 269 § 17.]

**25.10.905 Partner—Dissent—Payment of fair value.** (1) Except as provided in RCW 25.10.915 or 25.10.925(2), a partner of a domestic limited partnership is entitled to dissent from, and obtain payment of, the fair value of the partner's partnership interest in the event of consummation of a plan of merger to which the limited partnership is a party as permitted by RCW 25.10.800 or 25.10.840.

(2) A partner entitled to dissent and obtain payment for the partner's partnership interest under this article may not challenge the merger creating the partner's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, the partnership agreement, or is fraudulent with respect to the partner or the limited partnership.

(3) The right of a dissenting partner to obtain payment of the fair value of the partner's partnership interest shall terminate upon the occurrence of any one of the following events:

(a) The proposed merger is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the merger; or

(c) The partner's demand for payment is withdrawn with the written consent of the limited partnership. [1991 c 269 § 18.]

**25.10.910 Dissenters' rights—Notice—Timing.**

(1) Not less than ten days prior to the approval of a plan of merger, the limited partnership must send a written notice to all partners who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited partnership shall notify in writing all partners not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.10.920. [1991 c 269 § 19.]

**25.10.915 Partner—Dissent—Voting restriction.** A partner who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A partner who does not satisfy the requirements

of this section is not entitled to payment for the partner's interest under this article. [1991 c 269 § 20.]

**25.10.920 Partners—Dissenters' notice—Requirements.** (1) If the plan of merger is approved, the limited partnership shall deliver a written dissenters' notice to all partners who satisfied the requirements of RCW 25.10.915.

(2) The dissenters' notice required by RCW 25.10.910(2) or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

- (a) State where the payment demand must be sent;
- (b) Inform holders of the partnership interest as to the extent transfer of the partnership interest will be restricted as permitted by RCW 25.10.930 after the payment demand is received;
- (c) Supply a form for demanding payment;
- (d) Set a date by which the limited partnership must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and
- (e) Be accompanied by a copy of this article. [1991 c 269 § 21.]

**25.10.925 Partner—Payment demand—Entitlement.** (1) A partner who demands payment retains all other rights of a partner until the proposed merger becomes effective.

(2) A partner sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the partner's partnership interest under this article. [1991 c 269 § 22.]

**25.10.930 Partnership interests—Transfer restrictions.** The limited partnership may restrict the transfer of partnership interests from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article. [1991 c 269 § 23.]

**25.10.935 Payment of fair value—Requirements for compliance.** (1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited partnership shall pay each dissenter who complied with RCW 25.10.925 the amount the limited partnership estimates to be the fair value of the partnership interest, plus accrued interest.

(2) The payment must be accompanied by:

- (a) Copies of the financial statements for the most recent fiscal year maintained as required by RCW 25.10.050;
- (b) An explanation of how the limited partnership estimated the fair value of the partnership interest;
- (c) An explanation of how the accrued interest was calculated;
- (d) A statement of the dissenter's right to demand payment; and
- (e) A copy of this article. [1991 c 269 § 24.]

**25.10.940 Merger—Not effective within sixty days—Transfer restrictions.** (1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited partnership shall release any transfer restrictions imposed as permitted by RCW 25.10.930.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited partnership must send a new dissenters' notice as provided in RCW 25.10.910(2) and 25.10.920 and repeat the payment demand procedure. [1991 c 269 § 25.]

**25.10.945 Dissenter's estimate of fair value—Notice.** (1) A dissenter may notify the limited partnership in writing of the dissenter's own estimate of the fair value of the dissenter's partnership interest and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.10.935, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's partnership interest or that the interest due is incorrectly calculated;

(b) The limited partnership fails to make payment within sixty days after the date set for demanding payment; or

(c) The limited partnership, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on partnership interests as permitted by RCW 25.10.930 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited partnership of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited partnership made payment for the dissenter's partnership interest. [1991 c 269 § 26.]

**25.10.950 Unsettled demand for payment—Proceeding—Parties—Appraisers.** (1) If a demand for payment under RCW 25.10.945 remains unsettled, the limited partnership shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the partnership interest and accrued interest. If the limited partnership does not commence the proceeding within the sixty-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited partnership shall commence the proceeding in the superior court. If the limited partnership is a domestic limited partnership, it shall commence the proceeding in the county where its office is maintained as required by RCW 25.10.040(1). If the limited partnership is a domestic corporation, it shall commence the proceeding in the county where its principal office, as defined in \*RCW 23B.01.400(17), is located, or if none is in this state, its registered office under RCW 23B.05.010. If the limited partnership is a foreign limited partnership or corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the office of the domestic limited partnership maintained pursuant to RCW 25.10.040(1)

merged with the foreign limited partnership or foreign corporation was located.

(3) The limited partnership shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their partnership interests and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited partnership may join as a party to the proceeding any partner who claims to be a dissenter but who has not, in the opinion of the limited partnership, complied with the provisions of this chapter. If the court determines that such partner has not complied with the provisions of this article, the partner shall be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's partnership interest, plus interest, exceeds the amount paid by the limited partnership. [1991 c 269 § 27.]

\*Reviser's note: RCW 23B.01.400(17) was renumbered as RCW 23B.01.400(19) by 1991 c 269 § 35.

**25.10.955 Unsettled demand for payment—Costs—Fees and expenses of counsel.** (1) The court in a proceeding commenced under RCW 25.10.950 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited partnership, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited partnership and in favor of any or all dissenters if the court finds the limited partnership did not substantially comply with the requirements of this article; or

(b) Against either the limited partnership or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited

partnership, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited. [1991 c 269 § 28.]

## Title 26 DOMESTIC RELATIONS

### Chapters

- 26.04** Marriage.
- 26.09** Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.
- 26.10** Nonparental actions for child custody.
- 26.12** Family court.
- 26.16** Husband and wife—Rights and liabilities—Community property.
- 26.18** Child support.
- 26.19** Child support schedule.
- 26.21** Uniform reciprocal enforcement of support act.
- 26.23** State support registry.
- 26.26** Uniform parentage act.
- 26.33** Adoption.
- 26.44** Abuse of children and adult dependent or developmentally disabled persons—Protection—Procedure.
- 26.50** Domestic violence prevention.

### Chapter 26.04 MARRIAGE

#### Sections

- 26.04.175 When disclosure of marriage applications and records prohibited.

**26.04.175 When disclosure of marriage applications and records prohibited.** If a program participant under chapter 40.24 RCW notifies the appropriate county auditor as required under rules adopted by the secretary of state, the county auditor shall not make available for inspection or copying the name and address of a program participant contained in marriage applications and records filed under chapter 26.04 RCW, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency; and

(2) If directed by a court order, to a person identified in the order. [1991 c 23 § 12.]

Effective dates—1991 c 23: See RCW 40.24.900.

### Chapter 26.09 DISSOLUTION OF MARRIAGE—LEGAL SEPARATION—DECLARATIONS CONCERNING VALIDITY OF MARRIAGE

#### Sections

- 26.09.006 Mandatory use of approved forms.
- 26.09.015 Mediation—Confidentiality—Report to court.

- 26.09.100 Child support—Apportionment of expense—Periodic adjustments or modifications.
- 26.09.138 Mandatory assignment of public retirement benefits—Remedies exclusive.
- 26.09.160 Failure to comply with decree or temporary injunction—Obligation to make support or maintenance payments or permit contact with children not suspended—Penalties.
- 26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds.
- 26.09.173 Modification of child support order—Child support order summary report.
- 26.09.175 Modification of order of child support.
- 26.09.184 Permanent parenting plan.
- 26.09.225 Access to child's education and health care records.
- 26.09.260 Modification of parenting plan or custody decree.
- 26.09.280 Parenting plan or child support modification or enforcement—Venue.
- 26.09.909 Decrees entered into prior to January 1, 1988.

**26.09.006 Mandatory use of approved forms.** Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts. [1990 1st ex.s. c 2 § 26.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.09.015 Mediation—Confidentiality—Report to court.** (1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3) Mediation proceedings shall be held in private and shall be confidential. The mediator shall not testify as to any aspect of the mediation proceedings. This subsection shall not apply to postdecree mediation required pursuant to a parenting plan.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court. [1991 c 367 § 2; 1989 c 375 § 2; 1986 c 95 § 4.]

**Severability—1991 c 367:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 367 § 54.]

**Effective date—1991 c 367:** "This act shall take effect September 1, 1991." [1991 c 367 § 55.]

**Captions not law—1991 c 367:** "Captions as used in this act do not constitute any part of the law." [1991 c 367 § 57.]

**Mediation testimony competency:** RCW 5.60.070 and 5.60.072.

**26.09.100 Child support—Apportionment of expense—Periodic adjustments or modifications.** (1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170(4)(a). [1991 1st sp.s. c 28 § 1; 1990 1st ex.s. c 2 § 1; 1989 c 375 § 7; 1988 c 275 § 9; 1987 c 430 § 3; 1973 1st ex.s. c 157 § 10.]

**Severability—1991 1st sp.s. c 28:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 1st sp.s. c 28 § 9.]

**Effective date—1991 1st sp.s. c 28:** "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991." [1991 1st sp.s. c 28 § 10.]

**Captions not law—1991 1st sp.s. c 28:** "Captions as used in this act do not constitute any part of the law." [1991 1st sp.s. c 28 § 11.]

**Effective dates—1990 1st ex.s. c 2:** "(1) Sections 5 and 22 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 26, 1990].

(2) The remainder of this act shall take effect July 1, 1990." [1990 1st ex.s. c 2 § 30.]

**Severability—1990 1st ex.s. c 2:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 2 § 31.]

**Effective dates—Severability—1988 c 275:** See notes following RCW 26.19.001.

**Severability—1987 c 430:** See note following RCW 26.09.170.

**26.09.138 Mandatory assignment of public retirement benefits—Remedies exclusive.** (1) Any obligee of

a court order or decree establishing a spousal maintenance obligation may seek a mandatory benefits assignment order under chapter 41.50 RCW if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems.

(2) Any court order or decree establishing a spousal maintenance obligation may state that, if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3). Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance, nor does such failure affect the general applicability of RCW 41.50.500 through 41.50.650 to such obligations.

(3) The remedies in RCW 41.50.530 through 41.50.630 are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for enforcement of a spousal maintenance obligation ordered pursuant to a divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems for collection of spousal maintenance.

(4)(a) Nothing in this section regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an ex spouse to receive direct payment of retirement benefits payable pursuant to: (i) A court decree of dissolution or legal separation; or (ii) any court order or court-approved property settlement agreement; or (iii) incident to any court decree of dissolution or legal separation, if such dissolution orders fully comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180, \*41.32.590, \*\*41.40.380, or 43.43.310 as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991.

(b) Persons whose dissolution orders as defined in RCW 41.50.500(3) were entered between July 1, 1987, and July 28, 1991, shall be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders filed with the department comply or are amended to comply with RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.180, \*41.32.590, \*\*41.40.380, or 43.43.310. [1991 c 365 § 24; 1987 c 326 § 26.]

**Reviser's note:** \*(1) RCW 41.32.590 was recodified as RCW 41.32.052 pursuant to 1991 c 35 § 9.

\*\* (2) RCW 41.40.380 was recodified as RCW 41.40.052 pursuant to 1991 c 35 § 10.

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Effective date**—1987 c 326: See RCW 41.50.901.

**26.09.160 Failure to comply with decree or temporary injunction—Obligation to make support or maintenance payments or permit contact with children not suspended—Penalties.** (1) The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of duties provided in the parenting plan, shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent, in bad faith, has not complied with the order establishing residential provisions for the child, the court shall find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court

proceedings according to the procedure set forth in subsection (2) (a) and (b) of this section. On a finding of contempt under this subsection, the court shall order:

(a) The noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) The noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(c) The noncomplying parent to pay, to the moving party, a civil penalty of not less than two hundred fifty dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the non-moving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars. [1991 c 367 § 4; 1989 c 318 § 1; 1987 c 460 § 12; 1973 1st ex.s. c 157 § 16.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**Severability—1989 c 318:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 318 § 6.]

**26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds.** (1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for

modification and, except as otherwise provided in subsections (4), (5), (8), and (9) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8)(a) Except as provided in (b) and (c) of this subsection, all child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the modification pursuant to procedures of RCW 26.09.175.

(b) Parents whose decrees are entered before July 1, 1990, may petition the court for a modification after twelve months has expired from the entry of the decree or the most recent modification setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to (a) of this subsection.

(c) A party may petition for modification in cases of substantially changed circumstances, under subsection (1) of this section, at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a petition for modification under (a) of this subsection may be filed.

(d) If, pursuant to (a) of this subsection, the court modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a petition for modification under (a) of this subsection may be filed.

(e) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to (a) of this subsection alleging that increase constitutes a substantial change of circumstances under subsection (1) of this section.

(9) An order of child support may be modified twenty-four months from the date of the entry of the decree or the last modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW. [1991 1st sp.s. c 28 § 2; 1990 1st ex.s. c 2 § 2; 1989 c 416 § 3; 1988 c 275 § 17; 1987 c 430 § 1; 1973 1st ex.s. c 157 § 17.]

**Severability—Effective date—Captions not law—1991 1st sp.s. c 28:** See notes following RCW 26.09.100.

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Effective dates—Severability—1988 c 275:** See notes following RCW 26.19.001.

**Severability—1987 c 430:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 430 § 4.]

**26.09.173 Modification of child support order—Child support order summary report.** The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis. [1990 1st ex.s. c 2 § 23.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.09.175 Modification of order of child support.** (1) A proceeding for the modification of an order of child

support shall commence with the filing of a petition and worksheets. The petition shall be in substantially the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general. Proof of service shall be filed with the court.

(3) The responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

(7) The administrator for the courts shall develop and prepare, in consultation with interested persons, model forms or notices for the use of the procedure provided by this section, including a notice advising of the right of a party to proceed with or without benefit of counsel. [1991 c 367 § 6; 1990 1st ex.s. c 2 § 3; 1987 c 430 § 2.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Severability—1987 c 430:** See note following RCW 26.09.170.

**26.09.184 Permanent parenting plan.** (1) OBJECTIVES. The objectives of the permanent parenting plan are to:

- (a) Provide for the child's physical care;
- (b) Maintain the child's emotional stability;

(c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) **CONTENTS OF THE PERMANENT PARENTING PLAN.** The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child.

(3) **DISPUTE RESOLUTION.** A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In the dispute resolution process:

(a) Preference shall be given to carrying out the parenting plan;

(b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;

(d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent;

(e) The parties have the right of review from the dispute resolution process to the superior court; and

(f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

(4) **ALLOCATION OF DECISION-MAKING AUTHORITY.**

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith

effort to resolve the issue through the dispute resolution process.

(5) **RESIDENTIAL PROVISIONS FOR THE CHILD.** The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

(6) **PARENTS' OBLIGATION UNAFFECTED.** If a parent fails to comply with a provision of a parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision in a parenting plan or a child support order may result in a finding of contempt of court, under RCW 26.09.160.

(7) **PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN.** The permanent parenting plan shall set forth the provisions of subsections (3) (a) through (c), (4) (b) and (c), and (6) of this section. [1991 c 367 § 7; 1989 c 375 § 9; 1987 c 460 § 8.]

*Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.*

*Custody, designation of for purposes of other statutes: RCW 26.09.285.*

*Failure to comply with decree or temporary injunction—Obligations not suspended: RCW 26.09.160.*

**26.09.225 Access to child's education and health care records.** (1) Each parent shall have full and equal access to the education and health care records of the child absent a court order to the contrary. Neither parent may veto the access requested by the other parent.

(2) Educational records are limited to academic, attendance, and disciplinary records of public and private schools in all grades kindergarten through twelve and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records.

(3) Educational records of postsecondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support ordered pursuant to RCW 26.19.090. [1991 1st sp.s. c 28 § 3; 1990 1st ex.s. c 2 § 18; 1987 c 460 § 17.]

*Severability—Effective date—Captions not law—1991 1st sp.s. c 28: See notes following RCW 26.09.100.*

*Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.*

**26.09.260 Modification of parenting plan or custody decree.** (1) Except as otherwise provided in subsection (4) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the non-moving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

- (a) The parents agree to the modification;
- (b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may order adjustments to a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a:

- (a) Modification in the dispute resolution process; or
- (b) Minor modification in the residential schedule that:

(i) Does not change the residence the child is scheduled to reside in the majority of the time; and

(ii) Does not exceed twenty-four full days in a calendar year or five full days in a calendar month; or

(iii) Is based on a change of residence or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow.

(5) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party. [1991 c 367 § 9. Prior: 1989 c 375 § 14; 1989 c 318 § 3; 1987 c 460 § 19; 1973 1st ex.s. c 157 § 26.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**Severability—1989 c 318:** See note following RCW 26.09.160.

**26.09.280 Parenting plan or child support modification or enforcement—Venue.** Every action or proceeding to change, modify, or enforce any final order, judgment, or decree entered in any dissolution or legal separation or declaration concerning the validity of a marriage, whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree

was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing. [1991 c 367 § 10; 1987 c 460 § 20; 1975 c 32 § 4; 1973 1st ex.s. c 157 § 28.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.09.909 Decrees entered into prior to January 1, 1988.** (1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. Any action to modify any decree involving child custody, visitation, child support, or a parenting plan shall be governed by the provisions of this chapter.

(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988. [1990 1st ex.s. c 2 § 16; 1989 c 375 § 18; 1987 c 460 § 24.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

### Chapter 26.10

## NONPARENTAL ACTIONS FOR CHILD CUSTODY

#### Sections

26.10.015	Mandatory use of approved forms.
26.10.195	Modification of child support order—Child support order summary report.

**26.10.015 Mandatory use of approved forms.** Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts. [1990 1st ex.s. c 2 § 27.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.10.195 Modification of child support order—Child support order summary report.** The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis. [1990 1st ex.s. c 2 § 24.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Chapter 26.12**  
**FAMILY COURT**

## Sections

26.12.010	Jurisdiction conferred on superior court—Family law proceeding defined.
26.12.050	Family courts—Appointment of assistants in counties with populations of less than one million. (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
26.12.050	Family courts—Appointment of assistants in counties with populations of less than one million. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
26.12.060	Court commissioners—Duties. (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
26.12.060	Court commissioners—Duties. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)
26.12.090	Repealed.
26.12.100	Repealed.
26.12.110	Repealed.
26.12.120	Repealed.
26.12.130	Repealed.
26.12.140	Repealed.
26.12.150	Repealed.
26.12.170	Authority of family court judges and court commissioners to order or recommend services—Report by court of child abuse or neglect.
26.12.175	Appointment of guardian ad litem.
26.12.180	Repealed.
26.12.190	Family court jurisdiction as to pending actions—Use of family court services.
26.12.200	Repealed.
26.12.205	Priority for proceedings involving children.
26.12.210	Repealed.
26.12.215	Revision by the superior court.
26.12.220	Funding family court or family court services—Increase in marriage license fee authorized—Family court services program—Fees.

**26.12.010 Jurisdiction conferred on superior court—Family law proceeding defined.** Each superior court shall exercise the jurisdiction conferred by this chapter and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." A family law proceeding under this chapter is any proceeding under this title or any proceeding in which the family court is requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or obligations. [1991 c 367 § 11; 1983 c 219 § 1; 1949 c 50 § 1; Rem. Supp. 1949 § 997–30.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.12.050 Family courts—Appointment of assistants in counties with populations of less than one million. (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)** (1) Except as provided in subsection (2) of this section, in each county with a population of less than one million, the superior

court may appoint the following persons to assist the family court in disposing of its business:

(a) One or more attorneys to act as family court commissioners, and

(b) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

(2) The county legislative authority must approve the creation of family court commissioner positions.

(3) The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Family court commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. A person appointed as a family court commissioner may also be appointed to any other commissioner position authorized by law. [1991 c 363 § 17; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997–34.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Court**

*clerks, reporters, and bailiffs: Chapter 2.32 RCW.  
commissioners and referees: Chapter 2.24 RCW.*

**26.12.050 Family courts—Appointment of assistants in counties with populations of less than one million. (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.)** (1) Except as provided in subsection (2) of this section, in each county with a population of less than one million, the superior court may appoint the following persons to assist the family court in disposing of its business:

(a) One or more court commissioners as authorized pursuant to chapter 2.24 RCW, and

(b) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

(2) The appointment of commissioners shall be in accordance with chapter 2.24 RCW, and other appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. [1991 c 363 § 17; 1991 c 300 § 4; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997–34.]

**Reviser's note:** This section was amended by 1991 c 300 § 4 and by 1991 c 363 § 17, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Contingent effective date**—1991 c 300: See note following RCW 2.24.010.

**Court**

*clerks, reporters, and bailiffs: Chapter 2.32 RCW.  
commissioners and referees: Chapter 2.24 RCW.*

**26.12.060 Court commissioners—Duties.** (Effective unless the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program; (2) order investigation and reporting of the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021. [1991 c 367 § 12; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997–35.]

**Severability—Effective date—Captions not law**—1991 c 367: See notes following RCW 26.09.015.

**26.12.060 Court commissioners—Duties.** (Effective December 6, 1991, if the proposed amendment to Article IV, § 23 of the state Constitution is approved by the voters at the November 1991 general election.) The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program; (2) order investigation and reporting of the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021. [1991 c 367 § 12; 1991 c 300 § 5; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997–35.]

**Reviser's note:** This section was amended by 1991 c 300 § 5 and by 1991 c 367 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—Effective date—Captions not law**—1991 c 367: See notes following RCW 26.09.015.

**Contingent effective date**—1991 c 300: See note following RCW 2.24.010.

**26.12.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.100 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.170 Authority of family court judges and court commissioners to order or recommend services—Report by court of child abuse or neglect.** To facilitate and promote the purposes of this chapter, family court judges and court commissioners may order or recommend family court services, drug and alcohol abuse evaluations and monitoring of the parties through public or private treatment services, other treatment services, the aid of physicians, psychiatrists, other specialists, or other services or may recommend the aid of the pastor or director of any religious denomination to which the parties may belong.

If the court has reasonable cause to believe that a child of the parties has suffered abuse or neglect it may file a report with the proper law enforcement agency or the department of social and health services as provided in RCW 26.44.040. Upon receipt of such a report the law enforcement agency or the department of social and health services will conduct an investigation into the cause and extent of the abuse or neglect. The findings of the investigation may be made available to the court if ordered by the court as provided in RCW 42.17.310(3). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations. [1991 c 367 § 13; 1983 c 219 § 5; 1971 ex.s. c 151 § 2; 1949 c 50 § 17; Rem. Supp. 1949 § 997–46.]

**Severability—Effective date—Captions not law**—1991 c 367: See notes following RCW 26.09.015.

**26.12.175 Appointment of guardian ad litem.** The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian is in the best interests of the child in any proceeding under this chapter. The family court services professionals shall make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. [1991 c 367 § 17.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.12.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.190 Family court jurisdiction as to pending actions—Use of family court services.** (1) The family court shall have jurisdiction and full power in all pending cases to make, alter, modify, and enforce all temporary and permanent orders regarding the following: Parenting plans, child support, custody of children, visitation, possession of property, maintenance, contempt, custodial interference, and orders for attorneys' fees, suit money or costs as may appear just and equitable. Court commissioners or judges shall not have authority to require the parties to mediate disputes concerning child support.

(2) Family court investigation, evaluation, mediation, treatment, and reconciliation services, and any other services may be used to assist the court to develop an order as the court deems necessary to preserve the marriage, implement an amicable settlement, and resolve the issues in controversy. [1991 c 367 § 14; 1983 c 219 § 7; 1949 c 50 § 19; Rem. Supp. 1949 § 997–48.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.12.200 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.205 Priority for proceedings involving children.** The family court shall give proceedings involving children priority over cases without children. [1991 c 367 § 16.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.12.210 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.12.215 Revision by the superior court.** All acts and proceedings of the court commissioners shall be subject to revision by the superior court as provided in RCW 2.24.050. [1991 c 367 § 18.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.12.220 Funding family court or family court services—Increase in marriage license fee authorized—Family court services program—Fees.** (1) The legislative authority of any county may authorize family court services as provided in RCW 26.12.230. The legislative authority may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license. The fee shall not exceed eight dollars.

(2) In addition to any other funds used therefor, the governing body of any county shall use the proceeds from the fee increase authorized by this section to pay the expenses of the family court and the family court services under chapter 26.12 RCW. If there is no family court in the county, the legislative authority may provide such services through other county agencies or may contract with a public or private agency or person to provide such services. Family court services also may be provided jointly with other counties as provided in RCW 26.12.230.

(3) The family court services program may hire professional employees to provide the investigation, evaluation and reporting, and mediation services, or the county may contract for these services, or both. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists.

(4) The family court services program may provide or contract for: (a) Mediation; (b) investigation, evaluation, and reporting to the court; and (c) reconciliation; and may provide a referral mechanism for drug and alcohol testing, monitoring, and treatment; and any other treatment, parenting, or anger management programs the family court professional considers necessary or appropriate.

(5) Services other than family court investigation, evaluation, reconciliation, and mediation services shall be at the expense of the parties involved absent a court order to the contrary. The parties shall bear all or a portion of the family court investigation, evaluation, reconciliation, and mediation services according to the parties' ability to pay.

(6) The county legislative authority may establish rules of eligibility for the family court services funded under this section. The rules shall not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(7) The legislative authority may establish fees for family court investigation, evaluation, reconciliation, and mediation services under this chapter according to the parties' ability to pay for the services. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account

to be used as provided in this section. [1991 c 367 § 15; 1980 c 124 § 1.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Chapter 26.16

HUSBAND AND WIFE—RIGHTS AND LIABILITIES—COMMUNITY PROPERTY

Sections

26.16.205 Liability for family support—Termination of support obligation of stepparent, when.

26.16.205 Liability for family support—Termination of support obligation of stepparent, when. The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death. [1990 1st ex.s. c 2 § 13; 1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Chapter 26.18 CHILD SUPPORT

Sections

26.18.100 Wage assignment order—Form.
26.18.110 Wage assignment order—Employer's answer, duties, and liability—Priority.
26.18.140 Hearing to quash, modify, or terminate wage assignment order—Grounds—Alternate payment plan.
26.18.190 Compensation paid by agency or self-insurer on behalf of child.
26.18.210 Child support order summary report form.
26.18.220 Standard court forms—Mandatory use.

26.18.100 Wage assignment order—Form. The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

-----

.....
Obligee vs.
.....
Obligor
.....
Employer

No. ....
WAGE ASSIGNMENT ORDER

THE STATE OF WASHINGTON TO: .....
Employer

AND TO: .....
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the child support payable for one month. The amount of the accrued child support debt as of this date is ----- dollars, the amount of arrearage payments specified in the support order (if applicable) is ----- dollars per -----, and the amount of the current and continuing support obligation under the support order is ----- dollars per -----.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:

- (a) The sum of the accrued support debt and the current support obligation;
(b) The sum of the specified arrearage payment amount and the current support obligation; or
(c) Fifty percent of the disposable earnings of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings and remit to the Washington state support registry the proper amounts at each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

- (a) The court that the wage assignment has been modified or terminated;
(b) The Washington state support registry, office of support enforcement that the accrued child support debt has been paid; or
(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

You shall promptly notify the court and the Washington state support registry if and when the employee is no longer employed by you. If you no longer employ the employee, the wage assignment order shall remain in effect for one year after the employee has left your employment or your [you] are no longer in possession of any earnings owed to the employee. You shall continue to hold the wage assignment order during that one-year period. If the employee returns to your employment during the one-year period you shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned to your employment

within one year, the wage assignment will cease to have effect at the expiration of the one-year period.

You shall deliver the withheld earnings to the Washington state support registry at each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold or deliver under chapter 74.20A RCW.

**WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.**

**NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.**

DATED THIS ----- day of -----, 19---

-----  
Obligee, Judge/Court Commissioner  
or obligee's attorney

[1991 c 367 § 20; 1989 c 416 § 10; 1987 c 435 § 20; 1984 c 260 § 10.]

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

**Effective date—1987 c 435:** See RCW 26.23.900.

**26.18.110 Wage assignment order—Employer's answer, duties, and liability—Priority.** (1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the wage assignment order, and whether there are multiple child support attachments against the obligor.

(2) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry at each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated;

(b) The Washington state support registry that the accrued child support debt has been paid, provided the wage assignment order contains the language set forth under \*RCW 26.18.100(2)(b). The employer shall promptly notify the Washington state support registry

when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings owed to the employee. The employer shall continue to hold the wage assignment order during that one-year period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period; or

(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for one hundred percent of the support debt, or the amount of support monies that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject

to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) An employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible. [1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

**\*Reviser's note:** RCW 26.18.100(2)(b) was renumbered RCW 26.18.100(3)(b) by 1991 c 367 § 20.

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**Effective date—1987 c 435:** See RCW 26.23.900.

**26.18.140 Hearing to quash, modify, or terminate wage assignment order—Grounds—Alternate payment plan.** (1) Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order and order the obligor to make payments directly to the obligee if the court approves an alternate payment plan as provided in RCW 26.23.050(2). [1991 c 367 § 22; 1984 c 260 § 14.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.18.190 Compensation paid by agency or self-insurer on behalf of child.** (1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits on behalf of or on account of the child or children of the disabled person, the amount of compensation paid for the children shall be treated for all purposes as if the disabled person paid the compensation toward satisfaction of the disabled person's child support obligation.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section. [1990 1st ex.s. c 2 § 17.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.18.210 Child support order summary report form.**

(1) The administrator for the courts shall develop a child support order summary report form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

- (a) The county in which the order was entered and the cause number;
- (b) Whether it was a judicial or administrative order;
- (c) Whether the order is an original order or from a modification;
- (d) The number of children of the parties and the children's ages;
- (e) The combined monthly net income of parties;
- (f) The monthly net income of the father as determined by the court;
- (g) The monthly net income of the mother as determined by the court;
- (h) The basic child support obligation for each child as determined from the economic table;
- (i) Whether or not the court deviated from the child support for each child;
- (j) The reason or reasons stated by the court for the deviation;
- (k) The amount of child support after the deviation;
- (l) Any amount awarded for day care;
- (m) Any other extraordinary amounts in the order;
- (n) Any amount ordered for postsecondary education;
- (o) The total amount of support ordered;
- (p) In the case of a modification, the amount of support in the previous order;
- (q) If the change in support was in excess of thirty percent, whether the change was phased in;
- (r) The amount of the transfer payment ordered;
- (s) Which parent was ordered to make the transfer payment; and
- (t) The date of the entry of the order.

(2) The administrator for the courts shall make the form available to the parties. [1990 1st ex.s. c 2 § 22.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.18.220 Standard court forms—Mandatory use.**

The administrator for the courts shall develop not later than July 1, 1991, standard court forms for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992. [1990 1st ex.s. c 2 § 25.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Chapter 26.19  
CHILD SUPPORT SCHEDULE**

Sections	
26.19.010	Repealed.
26.19.011	Definitions.
26.19.020	Child support economic table.
26.19.025	Legislative review of support schedule.
26.19.030	Repealed.
26.19.035	Standards for application of the child support schedule.
26.19.040	Repealed.
26.19.045	Veterans' disability pensions, compensation for disability, and aid and attendant care payments.
26.19.050	Worksheets and instructions.
26.19.055	Payments for attendant services in cases of disability.
26.19.060	Repealed.
26.19.065	Standards for establishing lower and upper limits on child support amounts.
26.19.070	Repealed.
26.19.071	Standards for determination of income.
26.19.075	Standards for deviation from the standard calculation.
26.19.080	Allocation of child support obligation between parents.
26.19.090	Standards for postsecondary educational support awards.
26.19.100	Federal income tax exemptions.
26.19.110	Repealed.

**26.19.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

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

(1) "Basic child support obligation" means the monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for whom support is owed.

(2) "Child support schedule" means the standards, economic table, worksheets, and instructions, as defined in this chapter.

(3) "Court" means a superior court judge, court commissioner, and presiding and reviewing officers who administratively determine or enforce child support orders.

(4) "Deviation" means a child support amount that differs from the standard calculation.

(5) "Economic table" means the child support table for the basic support obligation provided in RCW 26.19.020.

(6) "Instructions" means the instructions developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in completing the worksheets.

(7) "Standards" means the standards for determination of child support as provided in this chapter.

(8) "Standard calculation" means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation.

(9) "Support transfer payment" means the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the standard calculation and deviations. If certain expenses or credits are expected to fluctuate and the order

states a formula or percentage to determine the additional amount or credit on an ongoing basis, the term "support transfer payment" does not mean the additional amount or credit.

(10) "Worksheets" means the forms developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in determining the amount of child support. [1991 1st sp.s. c 28 § 4.]

**Severability—Effective date—Captions not law—1991 1st sp.s. c 28:** See notes following RCW 26.09.100.

**26.19.020 Child support economic table.**

**ECONOMIC TABLE  
MONTHLY BASIC SUPPORT OBLIGATION PER  
CHILD**

KEY: A = AGE 0-11 B = AGE 12-18

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY		TWO CHILDREN FAMILY	
	A	B	A	B
0				
100				
200				
300				
400				
500				
600	133	164	103	127
700	155	191	120	148
800	177	218	137	170
900	199	246	154	191
1000	220	272	171	211
1100	242	299	188	232
1200	264	326	205	253
1300	285	352	221	274
1400	307	379	238	294
1500	327	404	254	313
1600	347	428	269	333
1700	367	453	285	352
1800	387	478	300	371
1900	407	503	316	390
2000	427	527	331	409
2100	447	552	347	429
2200	467	577	362	448
2300	487	601	378	467
2400	506	626	393	486
2500	526	650	408	505
2600	534	661	416	513
2700	542	670	421	520
2800	549	679	427	527
2900	556	686	431	533
3000	561	693	436	538
3100	566	699	439	543
3200	569	704	442	546
3300	573	708	445	549
3400	574	710	446	551
3500	575	711	447	552
3600	577	712	448	553
3700	578	713	449	554
3800	581	719	452	558
3900	596	736	463	572
4000	609	753	473	584
4100	623	770	484	598
4200	638	788	495	611
4300	651	805	506	625
4400	664	821	516	637
4500	677	836	525	649
4600	689	851	535	661

For income less than \$600 the obligation is based upon the resources and living expenses of each household. Minimum support shall not be less than \$25 per child per month.

Child Support Schedule

26.19.020

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY		TWO CHILDREN FAMILY		COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY		FOUR CHILDREN FAMILY		FIVE CHILDREN FAMILY	
	A	B	A	B		A	B	A	B	A	B
4700	701	866	545	673	3300	371	459	314	388	273	339
4800	713	882	554	685	3400	372	460	315	389	274	340
4900	726	897	564	697	3500	373	461	316	390	275	341
5000	738	912	574	708	3600	374	462	317	391	276	342
5100	751	928	584	720	3700	375	463	318	392	277	343
5200	763	943	593	732	3800	377	466	319	394	278	344
5300	776	959	602	744	3900	386	477	326	404	284	352
5400	788	974	612	756	4000	395	488	334	413	291	360
5500	800	989	622	768	4100	404	500	341	422	298	368
5600	812	1004	632	779	4200	413	511	350	431	305	377
5700	825	1019	641	791	4300	422	522	357	441	311	385
5800	837	1035	650	803	4400	431	532	364	449	317	392
5900	850	1050	660	815	4500	438	542	371	458	323	400
6000	862	1065	670	827	4600	446	552	377	467	329	407
6100	875	1081	680	839	4700	455	562	384	475	335	414
6200	887	1096	689	851	4800	463	572	391	483	341	422
6300	899	1112	699	863	4900	470	581	398	491	347	429
6400	911	1127	709	875	5000	479	592	404	500	353	437
6500	924	1142	718	887	5100	487	602	411	509	359	443
6600	936	1157	728	899	5200	494	611	418	517	365	451
6700	949	1172	737	911	5300	503	621	425	525	371	458
6800	961	1188	747	923	5400	511	632	432	533	377	466
6900	974	1203	757	935	5500	518	641	439	542	383	473
7000	986	1218	767	946	5600	527	651	446	551	389	480
					5700	535	661	452	559	395	488
					5800	543	671	459	567	401	495
					5900	551	681	466	575	407	502
					6000	559	691	473	584	413	509
					6100	567	701	479	593	418	517
					6200	575	710	486	601	424	524
					6300	583	721	493	609	430	532
					6400	591	731	500	617	436	539
					6500	599	740	506	626	442	546
					6600	607	750	513	635	448	554
					6700	615	761	520	643	454	561
					6800	623	770	527	651	460	568
					6900	631	780	533	659	466	575
					7000	639	790	540	668	472	583

  

COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY		FOUR CHILDREN FAMILY		FIVE CHILDREN FAMILY	
	A	B	A	B	A	B
0						
100						
200						
300						
400						
500						
600	86	106	73	90	63	78
700	100	124	85	105	74	91
800	115	142	97	120	84	104
900	129	159	109	135	95	118
1000	143	177	121	149	105	130
1100	157	194	133	164	116	143
1200	171	211	144	179	126	156
1300	185	228	156	193	136	168
1400	199	246	168	208	147	181
1500	212	262	179	221	156	193
1600	225	278	190	235	166	205
1700	238	294	201	248	175	217
1800	251	310	212	262	185	228
1900	264	326	223	275	194	240
2000	277	342	234	289	204	252
2100	289	358	245	303	213	264
2200	302	374	256	316	223	276
2300	315	390	267	330	233	288
2400	328	406	278	343	242	299
2500	341	421	288	356	251	311
2600	346	428	293	362	256	316
2700	351	435	298	368	259	321
2800	356	440	301	372	262	324
2900	360	445	305	376	266	328
3000	364	449	308	380	268	331
3100	367	453	310	383	270	334
3200	369	457	312	386	272	336

For income less than \$600 the obligation is based upon the resources and living expenses of each household. Minimum support shall not be less than \$25 per child per month.

The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact. [1991 c 367 § 25; 1990 1st ex.s. c 2 § 19; 1989 c 175 § 76; 1988 c 275 § 3.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.  
 Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.  
 Effective date—1989 c 175: See note following RCW 34.05.010.

**Effective dates—Severability—1988 c 275:** See notes following RCW 26.19.001.

**26.19.025 Legislative review of support schedule.** The legislature shall review the support schedule every four years to determine if the application of the support schedule results in appropriate support orders. [1991 c 367 § 26.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.19.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.19.035 Standards for application of the child support schedule.** (1) **Application of the child support schedule.** The child support schedule shall be applied:

- (a) In each county of the state;
- (b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;
- (c) In all proceedings in which child support is determined or modified;
- (d) In setting temporary and permanent support;
- (e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and
- (f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) **Written findings of fact supported by the evidence.** An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation.

(3) **Completion of worksheets.** Worksheets in the form developed by the office of the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the office of the administrator for the courts.

(4) **Court review of the worksheets and order.** The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order. [1991 c 367 § 27.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.19.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.19.045 Veterans' disability pensions, compensation for disability, and aid and attendant care payments.** Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States armed forces paid by the veterans' administration shall be disclosed to the court. The court may consider either type of compensation as disposable income for purposes of calculating the child support obligation. Aid and attendant care payments to prevent hospitalization paid by the veterans' administration solely to provide physical home care for a disabled veteran, and special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r) to provide either special care or special aids, or both, to assist with routine daily functions shall also be disclosed. The court may not include either aid and attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the standard calculation. [1991 c 367 § 30.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.19.050 Worksheets and instructions.** (1) The administrator for the courts shall develop and adopt worksheets and instructions to assist the parties and courts in establishing the appropriate child support level and apportionment of support. The administrator for the courts shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts shall develop and adopt standards for the printing of worksheets and shall establish a process for certifying printed worksheets. The administrator may maintain a register of sources for approved worksheets.

(3) The administrator for the courts should explore methods to assist pro se parties and judges in the courtroom to calculate support payments through automated software, equipment, or personal assistance. [1990 1st ex.s. c 2 § 5; 1988 c 275 § 6.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Effective dates—Severability—1988 c 275:** See notes following RCW 26.19.001.

**26.19.055 Payments for attendant services in cases of disability.** Payments from any source, other than veterans' aid and attendance allowances or special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r), for services provided by an attendant in case of a disability when the disability necessitates the hiring of the services of an attendant shall be disclosed but shall not be included in gross income and shall not be a reason to deviate from the standard calculation. [1991 c 367 § 31.]

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

**26.19.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.19.065 Standards for establishing lower and upper limits on child support amounts.** (1) **Limit at forty-five percent of a parent's net income.** Neither parent's total child support obligation may exceed forty-five percent of net income except for good cause shown. Good cause includes but is not limited to possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) **Income below six hundred dollars.** When combined monthly net income is less than six hundred dollars, a support order of not less than twenty-five dollars per child per month shall be entered for each parent. A parent's support obligation shall not reduce his or her net income below the need standard for one person established pursuant to RCW 74.04.770, except for the mandatory minimum payment of twenty-five dollars per child per month as required in this section or in cases where the court finds reasons for deviation under \*section 32 of this act. This section shall not be construed to require monthly substantiation of income.

(3) **Income above five thousand and seven thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact. [1991 c 367 § 33.]

\*Reviser's note: "Section 32 of this act" was vetoed by the governor.

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

**26.19.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.19.071 Standards for determination of income.** (1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall

be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Aid to families with dependent children;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from aid to families with dependent children, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered spousal maintenance to the extent actually paid;

(g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of

the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census. [1991 1st sp.s. c 28 § 5.]

**Severability—Effective date—Captions not law—1991 1st sp.s. c 28:** See notes following RCW 26.09.100.

**26.19.075 Standards for deviation from the standard calculation.** (1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of

the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children; or

(iv) Special medical, educational, or psychological needs of the children.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving aid to families with dependent children. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households

shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation. [1991 1st sp.s. c 28 § 6.]

**Severability—Effective date—Captions not law—1991 1st sp.s. c 28:** See notes following RCW 26.09.100.

**26.19.080 Allocation of child support obligation between parents.** (1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation. [1990 1st ex.s. c 2 § 7.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.19.090 Standards for postsecondary educational support awards.** (1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.

(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of

factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

(3) The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.

(4) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall have full and equal access to the postsecondary education records as provided in RCW 26.09.225.

(5) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(6) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent. If the child resides with one of the parents the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments. [1991 1st sp.s. c 28 § 7; 1990 1st ex.s. c 2 § 9.]

**Severability—Effective date—Captions not law—1991 1st sp.s. c 28:** See notes following RCW 26.09.100.

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.19.100 Federal income tax exemptions.** The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties, or both. [1990 1st ex.s. c 2 § 10.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**26.19.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 26.21

UNIFORM RECIPROCAL ENFORCEMENT OF  
SUPPORT ACT

## Sections

26.21.230 Foreign support order—Registration of order—Jurisdiction of court.

**26.21.230 Foreign support order—Registration of order—Jurisdiction of court.** The obligee, the prosecuting attorney, or the attorney general may register the foreign support order in a court of this state in the manner provided for in this chapter for the purpose of modification and enforcement of the support provisions. The court shall only have jurisdiction to consider the child support provisions of the order. The modification shall be pursuant to RCW 26.09.170 and 26.09.175. [1991 c 367 § 37; 1963 c 45 § 30.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

## Chapter 26.23

## STATE SUPPORT REGISTRY

## Sections

26.23.035 Distribution of support received.  
26.23.050 Support orders—Notice—Payments—Enforcement.  
26.23.060 Notice of payroll deduction—Answer—Processing fee.  
26.23.070 Payments to registry—Methods—Immunity from civil liability.  
26.23.090 Employer liability for failure or refusal to respond or remit earnings.  
26.23.100 Motion to quash, modify, or terminate payroll deduction—Grounds for relief.  
26.23.130 Notice to department of child support or maintenance orders.

*Authority of office of support enforcement to take support enforcement action against earnings within the state: RCW 74.20A.095.*

**26.23.035 Distribution of support received.** (1) The department of social and health services shall adopt rules for the distribution of support money collected by the office of support enforcement. These rules shall:

(a) Comply with 42 U.S.C. Sec. 657;

(b) Direct the office of support enforcement to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The office of support enforcement cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV–D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV–D custodian before

the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The office of support enforcement may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support. [1991 c 367 § 38; 1989 c 360 § 34.]

**Severability—Effective date—Captions not law—1991 c 367:** See notes following RCW 26.09.015.

**26.23.050 Support orders—Notice—Payments—Enforcement.** (1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation:

(a) A provision which orders and directs that the responsible parent make all support payments to the Washington state support registry;

(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; and

(c) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

(2) The court may order the responsible parent to make payments directly to the person entitled to receive the payments or, for orders entered on or after July 1, 1990, direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed

until a support payment is past due if the court approves an alternate payment plan. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. The court may approve such a plan and modify or terminate the payroll deduction or other income withholding action at the time of entry of the order or at a later date upon motion and agreement of the parties. If the order directs payment to the person entitled to receive the payments instead of to the Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due. If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement that such action may be taken, without further notice, at any time after a support payment is past due. The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due or at any time after the entry of the order, the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;

(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of an order by the court, unless:

(i) The court approves an alternate payment plan under subsection (2) of this section;

(ii) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(iii) The parties reach an alternate agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, and name of employer of the responsible parent;

(g) The social security number and residence address of the physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children;

(i) That the parties are to notify the Washington state support registry of any change in residence address;

(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage.

(6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.

(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.

(8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under

RCW 74.20.040 to the fullest extent permitted under federal law.

(9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (3), or (4) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section. [1991 c 367 § 39; 1989 c 360 § 15; 1987 c 435 § 5.]

~~Severability—Effective date—Captions not law—1991 c 367:~~  
See notes following RCW 26.09.015.

**26.23.060 Notice of payroll deduction—Answer—Processing fee.** (1) The office of support enforcement may issue a notice of payroll deduction:

(a) As authorized by a support order that contains the income withholding notice provisions in RCW 26.23.050 or a substantially similar notice; or

(b) After service of a notice containing an income withholding provision under this chapter or chapter 74-20A RCW.

(2) The office of support enforcement shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW by personal service or by any form of mail requiring a return receipt.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; and

(d) The address to which the payments are to be mailed or delivered.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the responsible parent is due to be paid.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the office of support enforcement within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether the employer or employment security department anticipates paying earnings or employment [unemployment] compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.

(9) The employer or employment security department may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the office of support enforcement, the court enters an order terminating the notice and approving an alternate payment plan under RCW 26.23.050(2), or one year has expired since the employer has employed the responsible parent or has been in possession of or owing any earnings to the responsible parent or the employment security department has been in possession of or owing any unemployment compensation benefits to the responsible parent. [1991 c 367 § 40; 1989 c 360 § 32; 1987 c 435 § 6.]

~~Severability—Effective date—Captions not law—1991 c 367:~~  
See notes following RCW 26.09.015.

**26.23.070 Payments to registry—Methods—Immunity from civil liability.** (1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible

parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the responsible parent for complying with a notice of payroll deduction under this chapter. [1991 c 367 § 41; 1987 c 435 § 7.]

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

**26.23.090 Employer liability for failure or refusal to respond or remit earnings.** (1) The employer shall be liable to the Washington state support registry for one hundred percent of the amount of the support debt, or the amount of support moneys which should have been withheld from the employee's earnings, whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.270. Awards in superior court and in actions pursuant to RCW 74.20A.270 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorney fees and staff costs as a part of the award. Debts established pursuant to this section may be collected pursuant to chapter 74.20A RCW utilizing any of the remedies contained in that chapter. [1990 c 165 § 2; 1987 c 435 § 10.]

**26.23.100 Motion to quash, modify, or terminate payroll deduction—Grounds for relief.** (1) The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction.

(2) Except as provided in subsections (4) and (5) of this section, the court may grant relief only upon a showing: (a) That the payroll deduction causes extreme hardship or substantial injustice; or (b) that the support payment was not past due under the terms of the order when the notice of payroll deduction was served on the employer.

(3) Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction.

(4) If a notice of payroll deduction has been in operation for twelve consecutive months and the obligor's support obligation is current, upon motion of the obligor, the court may order the office of support enforcement to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

(5) Subsection (2) of this section shall not prevent the court from ordering an alternative payment plan as provided under RCW 26.23.050(2). [1991 c 367 § 42; 1989 c 360 § 31; 1987 c 435 § 8.]

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

**26.23.130 Notice to department of child support or maintenance orders.** The department shall be given twenty calendar days prior notice of the entry of any final order and five days prior notice of the entry of any temporary order in any proceeding involving child support or maintenance if the department has a financial interest based on an assignment of support rights under RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030. Service of this notice upon the department shall be by personal service on, or mailing by any form of mail requiring a return receipt to, the office of the attorney general. The department shall not be entitled to terms for a party's failure to serve the department within the time requirements for this section, unless the department proves that the party knew that the department had an assignment of support rights or a subrogated interest and that the failure to serve the department was intentional. [1991 c 367 § 43.]

**Severability—Effective date—Captions not law—1991 c 367:**  
See notes following RCW 26.09.015.

## Chapter 26.26 UNIFORM PARENTAGE ACT

### Sections

26.26.040	Presumption of paternity.
26.26.065	Mandatory use of approved forms.

**26.26.040 Presumption of paternity.** (1) A man is presumed to be the natural father of a child for all intents and purposes if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court; or

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within three hundred days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) He has acknowledged his paternity of the child in writing filed with the registrar of vital statistics,

(ii) With his consent, he is named as the child's father on the child's birth certificate, or

(iii) He is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his child;

(e) He acknowledges his paternity of the child pursuant to RCW 70.58.080 or in a writing filed with the state office of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, if she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the registrar of vital statistics. In order to enforce rights of residential time, custody, and visitation, a man presumed to be the father as a result of filing a written acknowledgement must seek appropriate judicial orders under this title; or

(f) The United States immigration and naturalization service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship.

(2) A presumption under this section may be rebutted in an appropriate action only by clear, cogent, and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. [1990 c 175 § 2; 1989 c 55 § 4; 1975-'76 2nd ex.s. c 42 § 5.]

**26.26.065 Mandatory use of approved forms.** Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts. [1990 1st ex.s. c 2 § 28.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

## Chapter 26.33

### ADOPTION

#### Sections

26.33.020	Definitions.
26.33.040	Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required.
26.33.160	Consent to adoption—When revocable—Procedure.
26.33.190	Preplacement report—Requirements—Fees.
26.33.200	Post-placement report—Requirements—Exception—Fees.
26.33.295	Open adoption agreements—Agreed orders—Enforcement.
26.33.300	Adoption statistical data.
26.33.330	Records sealed—Inspection—Fee.
26.33.340	Department and agency files confidential—Limited disclosure of information.
26.33.343	Search for birth parent or adopted child—Confidential intermediary.
26.33.345	Search for birth parent or adopted child—Limited release of information.
26.33.350	Medical reports—Requirements.
26.33.390	Information on adoption-related services.

26.33.400 Advertisements—Prohibitions—Exceptions—Application of consumer protection act.

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

(1) "Alleged father" means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

(2) "Child" means a person under eighteen years of age.

(3) "Adoptee" means a person who is to be adopted or who has been adopted.

(4) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(5) "Court" means the superior court.

(6) "Department" means the department of social and health services.

(7) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

(8) "Parent" means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

(9) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(10) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(11) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents.

(12) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(13) "Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a biological mother or biological or alleged father, including a presumed father under

chapter 26.26 RCW, if the parent-child relationship was terminated because of an act for which the person was found guilty under chapter 9A.42 or 9A.44 RCW. [1990 c 146 § 1; 1984 c 155 § 2.]

**26.33.040 Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required.** (1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Indian Child Welfare Act does or does not apply. In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Soldiers and Sailors Civil Relief Act of 1940 does or does not apply. [1991 c 136 § 1; 1984 c 155 § 4.]

**26.33.160 Consent to adoption—When revocable—Procedure.** (1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:

- (a) The adoptee, if fourteen years of age or older;
- (b) The parents and any alleged father of an adoptee under eighteen years of age;
- (c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and
- (d) The legal guardian of the adoptee.

(2) Except as otherwise provided in subsection (4)(h) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:

(a) Written revocation may be delivered or mailed to the clerk of the court before approval; or

(b) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.

(3) Except as provided in subsections (2)(b) and (4)(h) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.

(4) Except as provided in (h) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:

- (a) It is given subject to approval of the court;
- (b) It has no force or effect until approved by the court;
- (c) The birth parent is or is not of Native American or Alaska native ancestry;
- (d) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;
- (e) It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:

(i) Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or

(ii) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written;

(f) The address of the clerk of court where the consent will be presented is included;

(g) Except as provided in (h) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court;

(h) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and

(i) The following statement has been read before signing the consent:

I understand that my decision to relinquish the child is an extremely important one, that the legal effect of this relinquishment will be to take from

me all legal rights and obligations with respect to the child, and that an order permanently terminating all of my parental rights to the child will be entered. I also understand that there are social services and counseling services available in the community, and that there may be financial assistance available through state and local governmental agencies.

(5) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.

(6) There must be a witness to the consent of the parent or alleged father. The witness must be at least eighteen years of age and selected by the parent or alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or alleged father. [1991 c 136 § 2; 1990 c 146 § 2; 1987 c 170 § 7; 1985 c 421 § 5; 1984 c 155 § 16.]

**Severability—1987 c 170:** See note following RCW 13.04.030.

**26.33.190 Preplacement report—Requirements—Fees.** (1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

- (a) The concept of adoption as a lifelong developmental process and commitment;
- (b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;
- (c) Disclosure of the fact of adoption to the child;
- (d) The child's possible questions about birth parents and relatives; and

(e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include an investigation of the conviction record, pending charges, or disciplinary board final decisions of prospective adoptive parents. The investigation shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done. [1991 c 136 § 3; 1990 c 146 § 3; 1984 c 155 § 19.]

**26.33.200 Post-placement report—Requirements—Exception—Fees.** (1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each post-placement report. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall

also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190. [1990 c 146 § 4; 1984 c 155 § 20.]

**26.33.295 Open adoption agreements—Agreed orders—Enforcement.** (1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child is in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the child adoptee, the adoptive parents, and a birth parent or parents as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order. [1990 c 285 § 4.]

**Findings—Purpose—Severability—1990 c 285:** See notes following RCW 74.04.005.

**26.33.300 Adoption statistical data.** The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed. [1991 c 3 § 288; 1990 c 146 § 5; 1984 c 155 § 30.]

**26.33.330 Records sealed—Inspection—Fee.** (1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records. [1990 c 145 § 3; 1984 c 155 § 33.]

**26.33.340 Department and agency files confidential—Limited disclosure of information.** Department and agency files regarding an adoption shall be confidential except the department or agency may disclose nonidentifying information upon the receipt of a verified written request for the information from the adoptive parent, the adoptee, or the natural parent. Identifying information may also be disclosed through the procedure described in RCW 26.33.343. [1990 c 145 § 4; 1984 c 155 § 34.]

**26.33.343 Search for birth parent or adopted child—Confidential intermediary.** (1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2)(a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages

in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I, \_\_\_\_\_, signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/ \_\_\_\_\_ date \_\_\_\_\_

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(a) Is less than twenty-five years of age and is residing with the adoptive parent; or

(b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential

intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(6)(a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated. [1990 c 145 § 1.]

**26.33.345 Search for birth parent or adopted child—Limited release of information.** (1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of vital records shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request. [1990 c 145 § 2.]

**26.33.350 Medical reports—Requirements.** (1) Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all available information concerning the mental, physical, and sensory handicaps of the child. The report shall not reveal the identity of the natural parent of the child but shall include any available mental or physical health history of the natural parent that needs to be known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(2) Where available, the information provided shall include:

(a) A review of the birth family's and the child's previous medical history, if available, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1992, medical histories shall be given on a standardized reporting form developed by the department;

(b) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(c) A referral to a specialist if indicated; and

(d) A written copy of the evaluation with recommendations to the adoptive family receiving the report. [1991 c 136 § 4; 1990 c 146 § 6; 1989 c 281 § 1; 1984 c 155 § 37.]

**26.33.390 Information on adoption-related services.**

(1) All persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, and developmental disabilities.

(2) Any person adopting a child shall receive from the adoption facilitator written information on adoption-related services. This information may be that published by the department or any other social service provider and shall include information about how to find and evaluate appropriate adoption therapists, and may include other resources for adoption-related issues.

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services. [1991 c 136 § 5; 1990 c 146 § 7; 1989 c 281 § 3.]

**26.33.400 Advertisements—Prohibitions—Exceptions—Application of consumer protection act.**

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

(3) A violation of subsection (2) of this section is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW. [1991 c 136 § 6; 1989 c 255 § 1.]

**Chapter 26.44****ABUSE OF CHILDREN AND ADULT DEPENDENT OR DEVELOPMENTALLY DISABLED PERSONS—PROTECTION—PROCEDURE****Sections**

- 26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment tools and report to legislature on use.
- 26.44.070 Repealed.
- 26.44.115 Child taken into custody under court order—Information to parents.
- 26.44.140 Treatment for abusive person removed from home.

**Pilot project—1990 c 3:** "Since child maltreatment cases often involve criminal offenses such as physical abuse, sexual abuse, and sexual exploitation by a family member, many such cases should be investigated by law enforcement agencies as well as child protective services agencies, and criminally prosecuted. A pilot project located in two counties shall be established for the joint investigation of child abuse and sexual assault cases by a law enforcement officer trained in gathering physical evidence and other investigative procedures, and a child protective services case worker skilled in interpreting psychological evidence and interviewing child victims in a sensitive manner.

The pilot project shall be conducted in the counties of King and Spokane from July 1, 1990, through June 30, 1991. The department of social and health services and participating law enforcement agencies shall report findings and recommendations to the senate committee on law and justice and the house of representatives judiciary committee by December 1, 1991.

The pilot project shall include the following elements:

(1) Joint training for law enforcement and child protective services staff in the investigation and assessment of reports of child maltreatment. The training programs shall be conducted jointly by the involved agencies.

(2) A law enforcement officer shall be teamed with a child protective services worker for the investigation of specified incidents.

(3) When the law enforcement agency receives a report of suspected physical abuse, neglect, sexual abuse, or other sexual exploitation of a child by the child's parent, guardian, custodian, or person otherwise responsible for the child's welfare the agency shall notify the child protective services agency immediately.

(4) When the child protective services agency receives a report of suspected physical assault, sexual offense, or sexual exploitation committed upon a child by anyone, whether or not the person is the child's parent, guardian, custodian, or otherwise responsible for the child's welfare, the agency shall notify the law enforcement agency immediately.

(5) The law enforcement agency and the child protective services agency shall jointly develop a procedure to determine when investigations of suspicious child deaths, physical abuse, neglect affecting the child's health, sexual abuse, and sexual exploitation of a child committed by the child's parent, guardian, custodian, or person otherwise responsible for the child's welfare shall be jointly investigated by the investigating teams authorized by this section." [1990 c 3 § 1401.]

**26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment tools and report to legislature on use.** (1) When any practitioner, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable

cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within

seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the

third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of incidents, conditions, or circumstances of child abuse and neglect, the department shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department of social and health services shall, within funds appropriated for this purpose, use a risk assessment tool when investigating child abuse and neglect referrals. The tool shall be used, on a pilot basis, in three local office service areas. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall report to the ways and means committees of the senate and house of representatives on the use of the tool by December 1, 1989. The report shall include recommendations on the continued use and possible expanded use of the tool.

(14) Upon receipt of such report the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting. [1991 c 111 § 1; 1989 c 22 § 1. Prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

**Severability**—1987 c 512: See RCW 18.19.901.

**Legislative findings**—1985 c 259: "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

**Severability**—1984 c 97: See RCW 74.34.900.

**Severability**—1982 c 129: See note following RCW 9A.04.080.

**Purpose**—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

**26.44.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**26.44.115 Child taken into custody under court order—Information to parents.** If a child is taken into custody by child protective services pursuant to a court

order issued under RCW 13.34.050, the child protective services worker shall take reasonable steps to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the child's placement. The department shall comply with RCW 13.34.060 when providing notice under this section. [1990 c 246 § 10; 1985 c 183 § 4.]

**Severability**—1990 c 246: See note following RCW 13.34.060.

**Citizen review board system—Purpose**—**Application of administrative procedures and standards:** RCW 13.70.003.

**26.44.140 Treatment for abusive person removed from home.** The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides.

The department of social and health services or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services unless the person is otherwise eligible to receive financial assistance in paying for such services. Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services. [1991 c 301 § 15; 1990 c 3 § 1301.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

**Index, part headings not law**—**Severability**—**Effective dates**—**Application**—1990 c 3: See RCW 18.155.900 through 18.155.902.

## Chapter 26.50

### DOMESTIC VIOLENCE PREVENTION

#### Sections

26.50.010	Definitions.
26.50.110	Violation of order—Penalties.
26.50.150	Domestic violence perpetrator programs.

**26.50.010 Definitions.** As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (b) sexual assault of one family or household member by another.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, and adult persons who are presently residing together or who have resided together in the past.

(3) "Court" includes the superior, district, and municipal courts of the state of Washington.

(4) "Judicial day" does not include Saturdays, Sundays, or legal holidays. [1991 c 301 § 8; 1984 c 263 § 2.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

*Domestic violence offenses defined: RCW 10.99.020.*

**26.50.110 Violation of order—Penalties.** (1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is a misdemeanor.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this chapter that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [1991 c 301 § 6; 1984 c 263 § 12.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

**26.50.150 Domestic violence perpetrator programs.** The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including: Current and past violence history; a lethality risk assessment; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section. [1991 c 301 § 7.]

**Finding**—1991 c 301: See note following RCW 10.99.020.

## Title 27

### LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

#### Chapters

- 27.04 State library.
- 27.12 Public libraries.
- 27.24 County law libraries.
- 27.34 State historical societies—Heritage council—Archaeology and historic preservation.
- 27.60 1989 Washington centennial.

**Chapter 27.04**  
**STATE LIBRARY**

Sections	
27.04.100	Reimbursement of employees for offender or resident assaults.
27.04.110	Learn-in-libraries program.

**27.04.100 Reimbursement of employees for offender or resident assaults.** (1) In recognition of prison overcrowding and the hazardous nature of employment in state institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the state library for some of their costs attributable to their being the victims of offender or resident assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the state librarian, or the state librarian's designee, finds that each of the following has occurred:

(a) An offender or resident has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) With respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the state librarian, or the state librarian's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the state librarian, or the state librarian's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the

state library. The payments shall be considered as a salary or wage expense and shall be paid by the state library in the same manner and from the same appropriations as other salary and wage expenses of the state library.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender or resident" means: (a) Inmate as defined in RCW 72.09-.020, (b) offender as defined in RCW 9.94A.030, (c) any other person in the custody of or subject to the jurisdiction of the department of corrections, or (d) a resident of a state institution. [1990 c 68 § 1.]

**27.04.110 Learn-in-libraries program.** (1) The learn-in-libraries program is hereby created. The state library commission shall administer the program.

(2) The state library commission may provide grants, with funds appropriated for that purpose, to local libraries to develop and implement learn-in-library programs that provide after school and vacation programs for children. Grant applicants shall be encouraged to develop programs that use older adult volunteers and other community volunteer resources. The programs shall be designed to increase literacy, improve reading skills, encourage reading, and provide homework assistance for school-age children who would otherwise be unsupervised. Applicants shall be encouraged to develop innovative models to provide services.

(3) In addition to grants provided under subsection (2) of this section, the state library commission may provide grants, with funds appropriated for that purpose, to local libraries to develop and implement other innovative programs for children throughout the year. Programs may be developed in cooperation with a school district and occur during the school day. Programs shall be designed to provide services to children or to help provide training to parents or other persons working with children in order to increase literacy, encourage reading, promote reading readiness, and improve reading and other learning skills. The commission shall encourage grant applicants to develop programs that use older adult volunteers and other community volunteer resources and to develop innovative models to provide services.

(4) The state library commission shall report to the legislature on the results of the program by December 1, 1991. [1991 c 91 § 1; 1990 c 290 § 2.]

**Chapter 27.12**  
**PUBLIC LIBRARIES**

Sections	
27.12.040	Rural library districts—Establishment.

**27.12.040 Rural library districts—Establishment.** The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county who voted in the last general election, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the county legislative authority.

(2) The county legislative authority, after having determined that the petitions were signed by the requisite number of registered voters, shall place the proposition for the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the county legislative authority shall forthwith declare it established. [1990 c 259 § 1; 1955 c 59 § 4. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

*Dissolution—Disposition of property: RCW 27.12.320.*

*Dissolution of island library district: RCW 27.12.450.*

### Chapter 27.24 COUNTY LAW LIBRARIES

#### Sections

27.24.062	Establishment of county and regional law libraries.
27.24.068	Establishment of county law library—Trustee—Free use of library.

**27.24.062 Establishment of county and regional law libraries.** In each county with a population of from eight thousand to less than one hundred twenty-five thousand, there shall be a county law library which shall be governed and maintained as hereinafter provided.

Two or more of such counties may, by agreement of the respective law library boards of trustees, create a regional law library and establish and maintain one principal law library at such location as the regional board of trustees may determine will best suit the needs of the users: PROVIDED, HOWEVER, That there shall be at all times a law library in such size as the board of trustees may determine necessary to be located at the courthouse where each superior court is located. [1991 c 363 § 18; 1971 ex.s. c 141 § 1; 1943 c 195 § 1; 1933 c 167 § 1; 1925 ex.s. c 94 § 1; Rem. Supp. 1943 § 8254-1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**27.24.068 Establishment of county law library—Trustee—Free use of library.** In each county with a population of less than eight thousand, there may be a county law library which shall be governed and maintained by the prosecuting attorney who shall also serve as trustee of such library without additional salary or other compensation.

The use of the county law library shall be free to the judges of the state, to state and county officials, and to

members of the bar, and to such others as the prosecuting attorney may by rule provide. [1991 c 363 § 19; 1975 c 37 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 27.34

### STATE HISTORICAL SOCIETIES—HERITAGE COUNCIL—ARCHAEOLOGY AND HISTORIC PRESERVATION

#### Sections

27.34.090	State capital historical museum association account—Purposes.
-----------	---

**27.34.090 State capital historical museum association account—Purposes.** All moneys in the state capital historical museum association account hereby created in the state treasury and any moneys appropriated from that account, shall be expended for the purposes of the state capital historical association museum as determined by a majority of the governing board of the state capital historical association. [1991 1st sp.s. c 13 § 36; 1985 c 57 § 7; 1983 c 91 § 9.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

### Chapter 27.60

### 1989 WASHINGTON CENTENNIAL

#### Sections

27.60.060	Repealed.
-----------	-----------

**27.60.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Title 28A

### COMMON SCHOOL PROVISIONS

#### Chapters

- 28A.26** Requiring attendance geographically near student's residence.
- 28A.61** Washington state school directors' association.
- 28A.150** General provisions.
- 28A.155** Special education.
- 28A.160** Student transportation.
- 28A.165** Learning assistance program.
- 28A.170** Substance abuse awareness program.
- 28A.175** Dropout prevention and retrieval program.
- 28A.180** Transitional bilingual instruction program.
- 28A.185** Highly capable students.
- 28A.190** Residential education programs.
- 28A.195** Private schools.
- 28A.200** Home-based instruction.
- 28A.205** Educational clinics.
- 28A.210** Health—Screening and requirements.

- 28A.215 Early childhood, preschools, and before-and-after school care.
- 28A.220 Traffic safety.
- 28A.225 Compulsory school attendance and admission.
- 28A.230 Compulsory coursework and activities.
- 28A.235 Food services.
- 28A.240 School-based management.
- 28A.300 Superintendent of public instruction.
- 28A.305 State board of education.
- 28A.310 Educational service districts.
- 28A.315 Organization and reorganization of school districts.
- 28A.320 Provisions applicable to all districts.
- 28A.325 Associated student bodies.
- 28A.330 Provisions applicable to school districts.
- 28A.335 School districts' property acquisition, operation, closure, and disposal.
- 28A.340 Small high school cooperative projects.
- 28A.345 Washington state school directors' association.
- 28A.350 School district warrants—Auditor's duties.
- 28A.400 Employees.
- 28A.405 Certificated employees.
- 28A.410 Certification.
- 28A.415 Teachers' institutes, workshops, and other in-service training.
- 28A.500 Local effort assistance.
- 28A.505 School districts budgets.
- 28A.510 Apportionment to district—District accounting.
- 28A.515 Common school construction fund.
- 28A.520 Forest reserve funds distribution.
- 28A.525 Bond issues.
- 28A.530 District bonds for land, buildings, and equipment.
- 28A.535 Validating indebtedness.
- 28A.540 Capital fund aid by nonhigh school districts.
- 28A.545 Payment to high school districts.
- 28A.550 State school equalization fund.
- 28A.600 Students.
- 28A.605 Parent access.
- 28A.610 Project even start.
- 28A.615 School involvement programs.
- 28A.620 Community education programs.
- 28A.623 Meal programs.
- 28A.625 Awards.
- 28A.630 Temporary provisions—Special projects.
- 28A.635 Offenses relating to school property and personnel.
- 28A.640 Sexual equality.
- 28A.645 Appeals from board.
- 28A.690 Agreement on qualifications of personnel.
- 28A.695 Compact for education.
- 28A.900 Construction.

**Chapter 28A.26**

**REQUIRING ATTENDANCE GEOGRAPHICALLY  
NEAR STUDENT'S RESIDENCE**

Sections

- 28A.26.010 through 28A.26.060 Repealed.

- 28A.26.900 Repealed.

**28A.26.010 through 28A.26.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.26.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 28A.61**

**WASHINGTON STATE SCHOOL DIRECTORS'  
ASSOCIATION**

Sections

- 28A.61.900 Repealed.

**28A.61.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 28A.150**

**GENERAL PROVISIONS**

Sections

**DEFINITIONS**

- 28A.150.010 Public schools.
- 28A.150.020 Common schools.
- 28A.150.030 School day.
- 28A.150.040 School year—Beginning—End.
- 28A.150.050 School holidays.
- 28A.150.060 Certificated employee.
- 28A.150.070 General public school system—Administration.
- 28A.150.080 Superintendent of the school district.
- 28A.150.090 Repealed.
- 28A.150.100 Basic education certificated instructional staff—Definition—Ratio to students.

**THE BASIC EDUCATION ACT**

- 28A.150.200 Basic Education Act of 1977—Program contents—As meeting constitutional requirements.
- 28A.150.210 Basic Education Act of 1977—Goal.
- 28A.150.220 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations.
- 28A.150.230 Basic Education Act of 1977—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide.
- 28A.150.240 Basic Education Act of 1977—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty.
- 28A.150.250 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard.
- 28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum contact classroom hours—Waiver.
- 28A.150.270 Annual basic education allocation of funds according to average FTE student enrollment—Procedure for crediting portion for school building purposes.
- 28A.150.280 Reimbursement for acquisition of approved transportation equipment—Method (as amended by 1981 c 265).
- 28A.150.280 Reimbursement for transportation costs—Method—Limitations (as amended by 1981 c 343).

28A.150.290 State superintendent to make rules and regulations—  
Unforeseen conditions or actions to be recognized—  
Paperwork limited.

28A.150.295 General public school system—Maintained.

#### APPROPRIATIONS AND ADJUSTMENTS

28A.150.350 Part time students—Defined—Enrollment author-  
ized—Reimbursement for costs—Funding author-  
ity recognition—Rules, regulations.

28A.150.360 Adjustments to meet emergencies.

28A.150.370 Additional programs for which legislative appropriations  
must or may be made.

28A.150.380 Appropriations by legislature.

28A.150.390 Appropriations for handicapped programs.

28A.150.400 Apportionment factors to be based on current fig-  
ures—Rules and regulations.

28A.150.410 Basic education certificated instructional staff—Sal-  
ary allocation schedule—Limits on post-graduate  
credits.

28A.150.420 Reimbursement for classes provided outside regular  
school year.

28A.150.430 Repealed.

28A.150.500 Educational agencies offering vocational education pro-  
grams—Local advisory committees—Advice on  
current job needs.

#### DEFINITIONS

**28A.150.010 Public schools.** Public schools shall mean the common schools as referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. [1969 ex.s. c 223 § 28A.01.055. Formerly RCW 28A.01.055.]

**28A.150.020 Common schools.** "Common schools" means schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. [1969 ex.s. c 223 § 28A.01.060. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.01.060, 28.58.190, part, 28.01.060.]

**28A.150.030 School day.** A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district. [1971 ex.s. c 161 § 1; 1969 ex.s. c 223 § 28A.01.010. Prior: (i) 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part; 1897 c 118 § 66, part; 1890 p 372 § 46. Formerly RCW 28.01.010, part. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1, part; 1909 c 97 p 371 subchapter 19, part; 1897 c 118 § 181, part. Formerly RCW 28A.01.010, 28.35.030, part.]

**28A.150.040 School year—Beginning—End.** The school year shall begin on the first day of September and end with the last day of August: PROVIDED, That any school district may elect to commence the minimum annual school term as required under RCW 28A.150.220 in the month of August of any calendar

year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district. [1990 c 33 § 101; 1982 c 158 § 5; 1977 ex.s. c 286 § 1; 1975-'76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28A.01.020, 28.01.020.]

**Severability—1982 c 158:** See note following RCW 28A.150.220.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.150.050 School holidays.** The following are school holidays, and school shall not be taught on these days: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: PROVIDED, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught. [1989 c 233 § 11; 1985 c 189 § 2; 1984 c 92 § 1; 1975-'76 2nd ex.s. c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060; prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.061, 28A.02.060, 28.02.060.]

**Severability—1969 ex.s. c 283:** "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 283 § 59.]

"Legal holidays": RCW 1.16.050.

**28A.150.060 Certificated employee.** The term "certificated employee" as used in RCW 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, shall include those persons who hold certificates as authorized by rule or regulation of the state board of education or the superintendent of public instruction. [1990 c 33 § 102; 1977 ex.s. c 359 § 17; 1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1. Formerly RCW 28A.01.130.]

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**Effective dates—1975 1st ex.s. c 288:** See RCW 41.59.940.

**Severability—1975 1st ex.s. c 288:** See RCW 41.59.950.

*Basic Education Act of 1977, RCW 28A.150.060 as part of: RCW 28A.150.200.*

*Construction of chapter—Employee's rights preserved: RCW 41.59.920.*

*Construction of chapter—Employer's responsibilities and rights preserved: RCW 41.59.930.*

**28A.150.070 General public school system—Administration.** The administration of the public school system shall be entrusted to such state and local officials, boards, and committees as the state Constitution and the laws of the state shall provide. [1969 ex.s. c 223 § 28A.02.020. Prior: 1909 c 97 p 230 § 2; RRS § 4519; prior: 1897 c 118 § 19; 1890 p 348 § 2; Code 1881 §§ 3154, 3155; 1861 p 55 § 1. Formerly RCW 28A.02.020, 28.02.020.]

**28A.150.080 Superintendent of the school district.** "Superintendent of the school district", if there be no such superintendent, shall mean such other administrative or certificated employee as the school district board of directors shall so designate. [1969 ex.s. c 223 § 28A.01.100. Formerly RCW 28A.01.100.]

**28A.150.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.150.100 Basic education certificated instructional staff—Definition—Ratio to students.** (1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" shall mean all full time equivalent certificated instructional staff in the following programs as defined for state-wide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) In the 1988-89 school year and thereafter, each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students. [1990 c 33 § 103; 1987 1st ex.s. c 2 § 203. Formerly RCW 28A.41.110.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

## THE BASIC EDUCATION ACT

**28A.150.200 Basic Education Act of 1977—Program contents—As meeting constitutional requirements.** \*This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW 28A.150.210, (2) those program requirements enumerated in RCW 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW 28A.150.250 and 28A.150.260.

The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state

to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools." [1990 c 33 § 104; 1977 ex.s. c 359 § 1. Formerly RCW 28A.58.750.]

**\*Reviser's note:** For codification of "this 1977 amendatory act" [1977 ex.s. c 359], see Codification Tables, Volume 0.

**Effective date—1977 ex.s. c 359:** "This 1977 amendatory act shall take effect September 1, 1978." [1977 ex.s. c 359 § 22.]

**Severability—1977 ex.s. c 359:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 359 § 21.]

The above two annotations apply to 1977 ex.s. c 359. For codification of that act, see Codification Tables, Volume 0.

**28A.150.210 Basic Education Act of 1977—Goal.** The goal of the Basic Education Act for the schools of the state of Washington set forth in \*this 1977 amendatory act shall be to provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning. Those skills shall include the ability:

(1) To distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures;

(2) To organize words and other symbols into acceptable verbal and nonverbal forms of expression, and numbers into their appropriate functions;

(3) To perform intellectual functions such as problem solving, decision making, goal setting, selecting, planning, predicting, experimenting, ordering and evaluating; and

(4) To use various muscles necessary for coordinating physical and mental functions. [1977 ex.s. c 359 § 2. Formerly RCW 28A.58.752.]

**\*Reviser's note:** For codification of "this 1977 amendatory act" [1977 ex.s. c 359], see Codification Tables, Volume 0.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**28A.150.220 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations.** (1) For the purposes of this section and RCW 28A.150.250 and 28A.150.260:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education,

health occupations education, vocational education, trade and industrial education, technical education and career education.

(2) Satisfaction of the basic education goal identified in RCW 28A.150.210 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The

remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish: PROVIDED, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.

(7) Handicapped education programs, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction. [1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

**Severability—1982 c 158:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

**Effective date—1979 ex.s. c 250:** "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

**Severability—1979 ex.s. c 250:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**28A.150.230 Basic Education Act of 1977—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide.** (1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules and regulations of the state board of education;

(d) Determine the allocation of staff time, whether certificated or classified;

(e) Establish final curriculum standards consistent with law and rules and regulations of the state board of education, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

(3) In keeping with the accountability purpose expressed in this section and to insure that the local community and electorate have access to information on the educational programs in the school districts, each school district's board of directors shall annually publish a descriptive guide to the district's common schools. This guide shall be made available at each school in the district for examination by the public. The guide shall include, but not be limited to, the following:

(a) Criteria used for written evaluations of staff members pursuant to RCW 28A.405.100;

(b) A summary of program objectives pursuant to RCW 28A.320.210;

(c) Results of comparable testing for all schools within the district; and

(d) Budget information which will include the following:

(i) Student enrollment;

(ii) Number of full time equivalent personnel per school in the district itemized according to classroom teachers, instructional support, and building administration and support services, including itemization of such personnel by program;

(iii) Number of full time equivalent personnel assigned in the district to central administrative offices, itemized according to instructional support, building and central administration, and support services, including itemization of such personnel by program;

(iv) Total number of full time equivalent personnel itemized by classroom teachers, instructional support, building and central administration, and support services, including itemization of such personnel by program; and

(v) Special levy budget request presented by program and expenditure for purposes over and above those requirements identified in RCW 28A.150.220. [1991 c 61 § 1; 1990 c 33 § 106; 1979 ex.s. c 250 § 7; 1977 ex.s. c 359 § 18. Formerly RCW 28A.58.758.]

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**28A.150.240 Basic Education Act of 1977—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty.** (1) It is the intended purpose of this section to guarantee that the certificated teaching and administrative staff in each common school district be held accountable for the proper and efficient conduct of classroom teaching in their school which will provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the other provisions of Title 28A RCW, it shall be the responsibility of the certificated teaching and administrative staff in each common school to:

(a) Implement the district's prescribed curriculum and enforce, within their area of responsibility, the rules and regulations of the school district, the state superintendent of public instruction, and the state board of education, taking into due consideration individual differences among students, and maintain and render appropriate records and reports pertaining thereto.

(b) Maintain good order and discipline in their classrooms at all times.

(c) Hold students to a strict accountability while in school for any disorderly conduct while under their supervision.

(d) Require excuses from the parents, guardians, or custodians of minor students in all cases of absence, late arrival to school, or early dismissal.

(e) Give careful attention to the maintenance of a healthful atmosphere in the classroom.

(f) Give careful attention to the safety of the student in the classroom and report any doubtful or unsafe conditions to the building administrator.

(g) Evaluate each student's educational growth and development and make periodic reports thereon to parents, guardians, or custodians and to school administrators.

Failure to carry out such requirements as set forth in subsection (2) (a) through (g) above shall constitute sufficient cause for discharge of any member of such teaching or administrative staff. [1979 ex.s. c 250 § 5; 1977 ex.s. c 359 § 19. Formerly RCW 28A.58.760.]

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**28A.150.250 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard.** From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 to each school district of the state operating a program approved by the state board of education an amount which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school

districts pursuant to RCW 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time equivalent student enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.150.250 and 28A.150.260 to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula and ratios provided in RCW 28A.150.260 and those amounts of dollars appropriated by the legislature to fund the salary requirements of RCW 28A.150.100 and 28A.150.410.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district: **PROVIDED**, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: **PROVIDED FURTHER**, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.150.250, 28A.150.260, and 28A.150.220, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: **PROVIDED**, That the state board of education may waive this requirement in the event of substantial lack of classroom space. [1990 c 33 § 107; 1987 1st ex.s. c 2 § 201; 1986 c 144 § 1; 1983 c 3 § 30; 1982 c 158 § 3; 1982 c 158 § 2; 1980 c 154 § 12; 1979 ex.s. c 250 § 2; 1977 ex.s. c 359 § 4; 1975 1st ex.s. c 211 § 1; 1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-5, part. Formerly RCW 28A.41.130, 28.41.130.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Effective date—1986 c 144:** "Section 1 of this act shall be effective September 1, 1987." [1986 c 144 § 2.]

**Severability—1982 c 158:** See note following RCW 28A.150.220.

**Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154:** See notes following chapter 82-.45 RCW digest.

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**Emergency—Effective date—1973 2nd ex.s. c 4:** See notes following RCW 84.52.043.

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

**Effective date—1972 ex.s. c 124:** "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions, and sections 2, 3, 4, 6, 7 and 11 shall take effect immediately [February 25, 1972]; sections 1, 8, 9 and 10 hereof shall take effect July 1, 1973; and section 5 hereof shall take effect July 1, 1974." [1972 ex.s. c 124 § 12.] For codification of 1972 ex.s. c 124, see Codification Tables, Volume 0.

**Severability—1972 ex.s. c 124:** "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 124 § 13.]

**Effective date—1972 ex.s. c 105:** "This act except for section 4 will take effect July 1, 1973." [1972 ex.s. c 105 § 5.] Section 4 was codified as RCW 28A.41.170.

**Severability—1972 ex.s. c 105:** "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 105 § 6.]

*Basic Education Act of 1977, RCW 28A.150.250 as part of: RCW 28A.150.200.*

*Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.*

**28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum contact classroom hours—Waiver.** The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

(a) Certificated instructional staff and their related costs;

(b) Certificated administrative staff and their related costs;

(c) Classified staff and their related costs;

(d) Nonsalary costs;

(e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) Commencing with the 1988–89 school year, the formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty–nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty–six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty–seven one–hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(6) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence. [1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Severability—1985 c 349:** See note following RCW 28A.320.200.

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

*Basic Education Act of 1977, RCW 28A.150.260 as part of: RCW 28A.150.200.*

*Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.*

**28A.150.270 Annual basic education allocation of funds according to average FTE student enrollment—Procedure for crediting portion for school building purposes.** The board of directors of a school district may, by properly executed resolution, request that the superintendent of public instruction direct a portion of the district's basic education allocation be credited to the district's capital projects fund and/or bond redemption fund. Moneys so credited shall be used solely for school building purposes. [1985 c 7 § 89; 1980 c 154 § 13. Formerly RCW 28A.41.143.]

**Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154:** See notes following chapter 82-45 RCW digest.

*School funds enumerated—Deposits—Uses: RCW 28A.320.330.*

**28A.150.280 Reimbursement for acquisition of approved transportation equipment—Method (as amended by 1981 c 265).** Costs of acquisition of approved transportation equipment purchased prior to September 1, 1982, shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be placed in the transportation vehicle fund for the current or future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized in RCW 28A.160.130. [1990 c 33 § 109; 1981 c 265 § 9; 1981 c 265 § 8; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

**28A.150.280 Reimbursement for transportation costs—Method—Limitations (as amended by 1981 c 343).** Reimbursement for transportation costs shall be in addition to the basic education allocation. Transportation costs shall be reimbursed as follows:

(1) School districts shall be reimbursed up to one hundred percent of the operational costs for established bus routes for the transportation of students to and from common schools as recommended by the educational service district superintendent or his or her designee, and as approved by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That commencing on September 1, 1982, no school district shall be reimbursed under this section for any portion of the cost to transport any student, except handicapped children as defined under RCW 28A.155.020, to or from any school other than one which is geographically located nearest or next-nearest to the student's place of residence within the district offering the appropriate grade level, course of study, or special academic program as designated by the local school board: PROVIDED FURTHER, That notwithstanding the provisions of section 94, \*chapter 340, Laws of 1981, any moneys not reimbursed to a school district for transportation costs pursuant to this subsection shall be allocated to the school district for block grants under section 100, \*chapter 340, Laws of 1981: PROVIDED FURTHER, That the superintendent of public instruction, when so requested by the appropriate educational service district superintendent or his or her designee, may waive the requirements of this 1981 provision, if natural geographic boundaries or safety factors would make this provision unworkable and/or more costly to the district or to the state; and

(2) Costs of acquisition of approved transportation equipment shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school

year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be held within the general fund exclusively for the future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized and promulgated under RCW 28A.150.290 and chapter 28A.505 RCW. [1990 c 33 § 110; 1981 c 343 § 1; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

**Reviser's note:** \*(1) Chapter 340, Laws of 1981, the state operating budget act, is uncodified.

(2) RCW 28A.150.280 was amended twice during the 1981 regular legislative session, each without reference to the other.

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

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**Severability—1977 c 80:** See note following RCW 28A.160.030.

**Severability—1971 c 48:** See note following RCW 28A.305.040.

*Additional programs for which legislative appropriations must or may be made:* RCW 28A.150.370.

*Basic Education Act of 1977, RCW 28A.150.280 as part of:* RCW 28A.150.200.

*Transportation vehicle fund—Deposits in—Use—Rules for establishment and use:* RCW 28A.160.130.

**28A.150.290 State superintendent to make rules and regulations—Unforeseen conditions or actions to be recognized—Paperwork limited.** (1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the total program hour offering, teacher contact hour, or course mix and percentage requirements imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy,

inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests. [1990 c 33 § 111; 1981 c 285 § 1; 1979 ex.s. c 250 § 6; 1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28A.41.170, 28.41.170.]

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1972 ex.s. c 105:** See notes following RCW 28A.150.250.

**28A.150.295 General public school system—Maintained.** A general and uniform system of public schools embracing the common schools shall be maintained throughout the state of Washington in accordance with Article IX of the state Constitution. [1969 ex.s. c 223 § 28A.02.010. Prior: 1909 c 97 p 230 § 1; RRS § 4518; prior: 1897 c 118 § 1; 1890 p 348 § 1. Formerly RCW 28A.02.010, 28.02.010.]

## APPROPRIATIONS AND ADJUSTMENTS

**28A.150.350 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations.** (1) For purposes of this section, the following definitions shall apply:

(a) "Private school student" shall mean any student enrolled full time in a private school;

(b) "School" shall mean any primary, secondary or vocational school;

(c) "School funding authority" shall mean any non-federal governmental authority which provides moneys to common schools;

(d) "Part time student" shall mean and include: Any student enrolled in a course of instruction in a private school and taking courses at and/or receiving ancillary services offered by any public school not available in such private school; or any student who is not enrolled in a private school and is receiving home-based instruction under RCW 28A.225.010 which instruction includes taking courses at or receiving ancillary services from the local school district or both; or any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students: PROVIDED, That this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) of this section and shall include such costs in the distribution of funds to school districts pursuant to RCW 28A.150.260. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time students authorized by subsection (2) of this section, and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW 28A.150.260 and 28A.150.350. [1990 c 33 § 112; 1985 c 441 § 5; 1977 ex.s. c 359 § 8; 1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Formerly RCW 28A.41.145.]

**Severability**—1985 c 441: See note following RCW 28A.225.010.

**Effective date**—**Severability**—1977 ex.s. c 359: See notes following RCW 28A.150.200.

**Severability**—1972 ex.s. c 14: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is held invalid." [1972 ex.s. c 14 § 2.]

*Basic Education Act of 1977, RCW 28A.150.350 as part of: RCW 28A.150.200.*

**28A.150.360 Adjustments to meet emergencies.** In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of RCW 28A.150.100 through \*28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 in providing an equal educational opportunity for the children of such district or districts. [1990 c 33 § 113; 1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28A.41.150, 28.41.150.]

\*Reviser's note: RCW 28A.150.430 was repealed by 1991 c 116 § 26.

**28A.150.370 Additional programs for which legislative appropriations must or may be made.** In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with RCW 28A.150.100 through \*28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010, and for programs for handicapped students, in accordance with RCW 28A.155.010 through 28A.155.100. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs. [1990 c 33 § 114; 1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7. Formerly RCW 28A.41.162.]

\*Reviser's note: RCW 28A.150.430 was repealed by 1991 c 116 § 26.

**Effective date**—1982 1st ex.s. c 24: "Sections 2 and 3 of this amendatory act shall take effect September 1, 1982." [1982 1st ex.s. c 24 § 6.]

**Severability**—1982 1st ex.s. c 24: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 24 § 7.]

The above two annotations apply to 1982 1st ex.s. c 24. For codification of that act, see Codification Tables, Volume 0.

**Effective date**—**Severability**—1977 ex.s. c 359: See notes following RCW 28A.150.200.

*Basic Education Act of 1977, RCW 28A.150.370 as part of: RCW 28A.150.200.*

**28A.150.380 Appropriations by legislature.** The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as provided in RCW 28A.150.100 through \*28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010. [1990 c 33 § 115; 1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940-2. Formerly RCW 28A.41.050, 28.41.050.]

\*Reviser's note: RCW 28A.150.430 was repealed by 1991 c 116 § 26.

Severability—1980 c 6: See note following RCW 28A.515.320.

**28A.150.390 Appropriations for handicapped programs.** The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for handicapped programs. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW 28A.150.250, 28A.150.260, and other state and local funds, excluding special excess levies. Funding for local district programs may include payments from state and federal funds for medical assistance provided under RCW 74.09.500 through 74.09.910. However, the superintendent of public instruction shall reimburse the department of social and health services from state appropriations for handicapped education programs for the state-funded portion of any medical assistance payment made by the department for services provided under an individualized education program established pursuant to RCW 28A.155.010 through 28A.155.100. The amount of such interagency reimbursement shall be deducted by the superintendent of public instruction in determining additional allocations to districts for handicapped education programs under this section. [1990 c 33 § 116; 1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11. Formerly RCW 28A.41.053.]

**Intent—1989 c 400:** "The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs." [1989 c 400 § 1.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

**28A.150.400 Apportionment factors to be based on current figures—Rules and regulations.** State and county funds which may become due and apportionable to school districts shall be apportioned in such a manner that any apportionment factors used shall utilize data and statistics derived in the school year that such funds are paid: PROVIDED, That the superintendent of public instruction may make necessary administrative provision for the use of estimates, and corresponding adjustments to the extent necessary: PROVIDED FURTHER, That as to those revenues used in determining the amount of state funds to be apportioned to school districts pursuant to RCW 28A.150.250, any apportionment factors shall utilize data and statistics derived in an annual period established pursuant to rules and regulations promulgated by the superintendent of public instruction in cooperation with the department of revenue. [1990 c 33 § 117; 1972 ex.s. c 26 § 3; 1969 ex.s. c 223 §

28A.41.055. Prior: 1955 c 350 § 1. Formerly RCW 28A.41.055, 28.41.055.]

Severability—1972 ex.s. c 26: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 26 § 4.]

**28A.150.410 Basic education certificated instructional staff—Salary allocation schedule—Limits on post-graduate credits.** (1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education instructional staff using the salary allocation schedule established pursuant to this section. However, no district shall receive an allocation based upon an average basic education certificated instructional staff salary which is less than the average of the district's 1986-87 actual basic education certificated instructional staff salaries, as reported to the superintendent of public instruction prior to June 1, 1987, and the legislature may grant minimum salary increases on that base: PROVIDED, That the superintendent of public instruction may adjust this allocation based upon the education and experience of the district's certificated instructional staff.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992. [1990 c 33 § 118; 1989 1st ex.s. c 16 § 1; 1987 3rd ex.s. c 1 § 4; 1987 1st ex.s. c 2 § 204. Formerly RCW 28A.41.112.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

**28A.150.420 Reimbursement for classes provided outside regular school year.** The superintendent of public instruction shall establish procedures to allow school districts to claim basic education allocation funds for students attending classes that are provided outside the regular school year to the extent such attendance is in lieu of attendance during the regular school year: PROVIDED, That nothing in this section shall be construed to alter the basic education allocation for which the district is otherwise eligible. [1989 c 233 § 10. Formerly RCW 28A.41.172.]

**28A.150.430 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.150.500 Educational agencies offering vocational education programs—Local advisory committees—Advice on current job needs.** (1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

(2) The local program committees shall:

- (a) Participate in the determination of program goals;
- (b) Review and evaluate program curricula, equipment, and effectiveness;
- (c) Include representatives of business and labor who reflect the local industry, and the community; and
- (d) Actively consult with other representatives of business, industry, labor, and agriculture. [1991 c 238 § 76.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

## Chapter 28A.155 SPECIAL EDUCATION

### Sections

- 28A.155.010 Purpose.
- 28A.155.020 Administrative section or unit for the education of children with handicapping conditions—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.
- 28A.155.030 Division administrative officer—Appointment—Duties.
- 28A.155.040 Authority of districts—Participation of department of social and health services.
- 28A.155.050 Aid for children unable to attend school—Apportionment—Allocations from state excess funds.
- 28A.155.060 District authority to contract with approved agencies—Approval standards.
- 28A.155.070 Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds.
- 28A.155.080 Appeal from superintendent's denial of educational program.
- 28A.155.090 Superintendent of public instruction's duty and authority.
- 28A.155.100 Sanctions applied to noncomplying districts.
- 28A.155.110 through 28A.155.130 Repealed.
- 28A.155.140 Curriculum-based assessment procedures for programs for children with handicapping conditions.

**28A.155.010 Purpose.** It is the purpose of RCW 28A.155.010 through 28A.155.100, 28A.160.030, and 28A.150.390 to ensure that all handicapped children as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state. [1990 c 33 § 120; 1971 ex.s. c 66 § 1. Formerly RCW 28A.13.005.]

**Severability—1971 ex.s. c 66:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 66 § 13.]

**Effective date—1971 ex.s. c 66:** "This 1971 amendatory act will take effect July 1, 1973." [1971 ex.s. c 66 § 14.]

**28A.155.020 Administrative section or unit for the education of children with handicapping conditions—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.** There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with handicapping conditions.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of RCW 28A.155.010 through 28A.155.100, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for handicapped children, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

No child shall be removed from the jurisdiction of juvenile court for training or education under RCW 28A.155.010 through 28A.155.100 without the approval of the superior court of the county. [1990 c 33 § 121; 1985 c 341 § 4; 1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

**Effective date—1985 c 341:** "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 § 18.]

**Severability—1984 c 160:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder

of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 160 § 6.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.030 Division administrative officer—Appointment—Duties.** The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for all handicapped children in the school districts of the state. He or she shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all handicapped children and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed. [1990 c 33 § 122; 1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679-27. Formerly RCW 28A.13.020, 28.13.020.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.040 Authority of districts—Participation of department of social and health services.** The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to handicapped children in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to handicapped children.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those handicapped students eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those handicapped students not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department

of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to handicapped children in residential schools operated by the department of social and health services. [1990 c 33 § 123; 1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28A.13.030, 28.13.030.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.050 Aid for children unable to attend school—Apportionment—Allocations from state excess funds.** Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under RCW 28A.155.010 through 28A.155.100 shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: PROVIDED, That should such child or any other handicapped child attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW 28A.225.210, 28A.225.220, and/or 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules and regulations promulgated by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment. [1990 c 33 § 124; 1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28A.13.040, 28.13.040.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.060 District authority to contract with approved agencies—Approval standards.** For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating handicapped programs. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools. [1990 c 33 § 125; 1971 ex.s. c 66 § 6. Formerly RCW 28A.13.045.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.070 Services to handicapped children of preschool age—Apportionment—Allocations from**

**state excess cost funds.** Special educational and training programs provided by the state and the school districts thereof for handicapped children may be extended to include children of preschool age. School districts which extend such special programs to children of preschool age shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those handicapped children who are given such special services. [1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28A.13.050, 28.13.050.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.080 Appeal from superintendent's denial of educational program.** Where a handicapped child as defined in RCW 28A.155.020 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW 28A.225.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW 28A.155.040 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.155.050.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by the superintendent and in accordance with RCW 28A.155.090. [1990 c 33 § 126; 1971 ex.s. c 66 § 8. Formerly RCW 28A.13.060.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.090 Superintendent of public instruction's duty and authority.** The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with handicapping conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of handicapped children;

(2) Develop interdistrict cooperation programs for handicapped children as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of handicapped children, information as to the handicapped programs offered within the state;

(4) Assist, upon request, the parent or guardian of any handicapped child in the placement of any handicapped child who is eligible for but not receiving special educational aid for handicapped children;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to handicapped children;

(6) Adjudge, upon appeal by a parent or guardian of a handicapped child who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.155.080 to exclude such handicapped child was justified by the available facts and consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; If the superintendent of public instruction shall decide otherwise he or she shall apply sanctions as provided in RCW 28A.155.100 until such time as the school district assures compliance with the provisions [of] RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; and

(7) Promulgate such rules and regulations as are necessary to implement the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 and to ensure educational opportunities within the common school system for all handicapped children who are not institutionalized. [1990 c 33 § 127; 1985 c 341 § 5; 1971 ex.s. c 66 § 9. Formerly RCW 28A.13.070.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.100 Sanctions applied to noncomplying districts.** The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured. [1990 c 33 § 128; 1971 ex.s. c 66 § 12. Formerly RCW 28A.13.080.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.110 through 28A.155.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.155.140 Curriculum-based assessment procedures for programs for children with handicapping conditions.** School districts may use curriculum-based assessment procedures as measures for developing academic early intervention programs and curriculum planning: PROVIDED, That the use of curriculum-based assessment procedures shall not deny a student the right to an assessment to determine eligibility or participation in learning disabilities programs as provided by RCW 28A.155.010 through 28A.155.100. [1991 c 116 § 4; 1990 c 33 § 131; 1987 c 398 § 1. Formerly RCW 28A.03.367.]

## Chapter 28A.160

## STUDENT TRANSPORTATION

## Sections

- 28A.160.010 Operation of student transportation program—Responsibility of local district—Scope—Transporting of elderly—Insurance.
- 28A.160.020 Authorization for private school students to ride buses—Conditions.
- 28A.160.030 Authorizing individual transportation or other arrangements.
- 28A.160.040 Lease of buses to transport handicapped children and elderly—Limitation.
- 28A.160.050 Lease of buses to transport handicapped children and elderly—Directors to authorize.
- 28A.160.060 Lease of buses to transport handicapped children and elderly—Lease at local level—Criteria.
- 28A.160.070 Lease of buses to transport handicapped children and elderly—Elderly persons defined—Program limitation.
- 28A.160.080 School buses, rental or lease for emergency purposes—Authorization.
- 28A.160.090 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease.
- 28A.160.100 School buses, transport of general public to interscholastic activities—Limitations.
- 28A.160.110 School buses, authorization for parent, guardian or custodian of a student to ride—Limitations.
- 28A.160.115 Bus routes.
- 28A.160.120 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations.
- 28A.160.130 Transportation vehicle fund—Deposits in—Use—Rules for establishment and use.
- 28A.160.140 Contract for pupil transportation services with private nongovernmental entity—Competitive bid procedures.
- 28A.160.150 Student transportation allocation—Operating costs, determination and funding.
- 28A.160.160 Student transportation allocation—Definitions.
- 28A.160.170 Student transportation allocation—District's annual report to superintendent.
- 28A.160.180 Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report.
- 28A.160.190 Student transportation allocation—Notice—Revised eligible student data, when—Allocation payments, amounts, when.
- 28A.160.200 Student transportation vehicle acquisition allocation—Determining vehicle categories and purchase price—Reimbursement schedule—Standards for operation and maintenance—Depreciation schedule.
- 28A.160.210 School bus drivers, training and qualifications—Rules and regulations for.
- 28A.160.220 Reimbursement for substitute if employee serves state board or superintendent.

*School buses—Crossing arms: RCW 46.37.620.*

**28A.160.010 Operation of student transportation program—Responsibility of local district—Scope—Transporting of elderly—Insurance.** The operation of each local school district's student transportation program is declared to be the responsibility of the respective board of directors, and each board of directors shall determine such matters as which individual students shall be transported and what routes shall be most efficiently utilized. State moneys allocated to local districts for student transportation shall be spent only for student transportation activities, but need not be spent

by the local district in the same manner as calculated and allocated by the state.

A school district is authorized to provide for the transportation of students enrolled in the school or schools of the district both in the case of students who reside within the boundaries of the district and of students who reside outside the boundaries of the district.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

School districts may use school buses and drivers hired by the district or commercial chartered bus service for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW 28A.160.080 and 28A.160.090, any school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: **PROVIDED, HOWEVER,** That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: **PROVIDED FURTHER,** That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW 28A.400.350.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable. [1990 c 33 § 132; 1986 c 32 § 1; 1983 1st ex.s. c 61 § 1; 1981 c 265 § 10; 1980 c 122 § 2; 1973 c 45 § 1; 1971 c 24 § 3; 1969

ex.s. c 153 § 3; 1969 ex.s. c 223 § 28A.24.055. Prior: (i) 1969 c 53 § 1; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 90 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100, part. (ii) 1965 ex.s. c 86 § 1. Formerly RCW 28A.24.055, 28.58.421.]

**Severability**—1983 1st ex.s. c 61: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 61 § 9.]

**Effective date**—**Severability**—1981 c 265: See notes following RCW 28A.160.150.

*Elderly persons defined*—*Program limitation: RCW 28A.160.070.*

**28A.160.020 Authorization for private school students to ride buses**—**Conditions.** Every school district board of directors may authorize children attending a private school approved in accordance with RCW 28A.195.010 to ride a school bus or other student transportation vehicle to and from school so long as the following conditions are met:

(1) The board of directors shall not be required to alter those bus routes or stops established for transporting public school students;

(2) Private school students shall be allowed to ride on a seat-available basis only; and

(3) The board of directors shall charge an amount sufficient to reimburse the district for the actual per seat cost of providing such transportation. [1990 c 33 § 133; 1981 c 307 § 1. Formerly RCW 28A.24.065.]

**Severability**—1981 c 307: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 307 § 2.]

**28A.160.030 Authorizing individual transportation or other arrangements.** Individual transportation, board and room, and other arrangements may be authorized or provided and, in whole or part, paid for or reimbursed by a school district, when approved by the educational service district superintendent or his or her designee pursuant to rules promulgated by the superintendent of public instruction for that purpose: **PROVIDED**, That the total of payments for board and room and transportation incidental thereto shall not exceed the amount which would otherwise be paid for such individual transportation. [1981 c 265 § 11; 1977 c 80 § 2; 1971 ex.s. c 66 § 10; 1969 ex.s. c 223 § 28A.24.100. Prior: 1965 ex.s. c 154 § 9. Formerly RCW 28A.24.100, 28.24.100.]

**Effective date**—**Severability**—1981 c 265: See notes following RCW 28A.160.150.

**Severability**—1977 c 80: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 c 80 § 5.]

**Severability**—**Effective date**—1971 ex.s. c 66: See notes following RCW 28A.155.010.

**28A.160.040 Lease of buses to transport handicapped children and elderly**—**Limitation.** The directors of school districts are authorized to lease school buses to nonprofit organizations to transport handicapped children and elderly persons to and from the site of activities or programs deemed beneficial to such persons by such organizations: **PROVIDED**, That commercial bus transportation is not reasonably available for such purposes. [1973 c 45 § 2; 1971 c 78 § 1. Formerly RCW 28A.24.110.]

*Elderly persons defined*—*Program limitation: RCW 28A.160.070.*

**28A.160.050 Lease of buses to transport handicapped children and elderly**—**Directors to authorize.** The directors of school districts may authorize leases under RCW 28A.160.040 through 28A.160.060: **PROVIDED**, That such leases do not conflict with regular school purposes. [1990 c 33 § 134; 1971 c 78 § 2. Formerly RCW 28A.24.111.]

**28A.160.060 Lease of buses to transport handicapped children and elderly**—**Lease at local level**—**Criteria.** The lease of the equipment shall be handled by the school directors at a local level. The school directors may establish criteria for bus use and lease, including, but not limited to, minimum costs, and driver requirements. [1971 c 78 § 3. Formerly RCW 28A.24.112.]

**28A.160.070 Lease of buses to transport handicapped children and elderly**—**Elderly persons defined**—**Program limitation.** For purposes of RCW 28A.160.010 and 28A.160.040, "elderly person" shall mean a person who is at least sixty years of age. No school district funds may be used for the operation of such a program. [1990 c 33 § 135; 1973 c 45 § 3. Formerly RCW 28A.24.120.]

**28A.160.080 School buses, rental or lease for emergency purposes**—**Authorization.** It is the intent of the legislature and the purpose of RCW 28A.160.010, 28A.160.080, and 28A.160.090 that in the event of major forest fires, floods, or other natural emergencies that boards of directors of school districts, in their discretion, may rent or lease school buses to governmental agencies for the purposes of transporting personnel, supplies and/or evacuees. [1990 c 33 § 136; 1971 c 24 § 1. Formerly RCW 28A.24.170.]

**28A.160.090 School buses, rental or lease for emergency purposes**—**Board to determine district policy**—**Conditions if rent or lease.** Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.160.080, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of community development or any of his or her agents so authorized has, at the request of an

involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto. [1990 c 33 § 137; 1986 c 266 § 21; 1985 c 7 § 88; 1974 ex.s. c 171 § 1; 1971 c 24 § 2. Formerly RCW 28A.24.172.]

**Severability**—1986 c 266: See note following RCW 38.52.005.

**28A.160.100 School buses, transport of general public to interscholastic activities—Limitations.** In addition to the authority otherwise provided in RCW 28A.160.010 through 28A.160.120 to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for their supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: **PROVIDED**, That provision shall be made for the reimbursement and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: **PROVIDED FURTHER**, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available as determined by rule and regulation of the state board of education, this section shall not apply. [1990 c 33 § 138; 1980 c 91 § 1. Formerly RCW 28A.24.175.]

**28A.160.110 School buses, authorization for parent, guardian or custodian of a student to ride—Limitations.** Every school district board of directors may authorize any parent, guardian or custodian of a student enrolled in the district to ride a school bus or other student transportation vehicle at the request of school officials or employees designated by the board: **PROVIDED**, That excess seating space is available on the vehicle after the transportation needs of students have been met: **PROVIDED FURTHER**, That private or other public transportation of the parent, guardian or custodian is not reasonable in the board's judgment. [1980 c 122 § 1. Formerly RCW 28A.24.178.]

**28A.160.115 Bus routes.** On highways divided into separate roadways as provided in RCW 46.61.150 and highways with three or more marked traffic lanes, public school district bus routes and private school bus routes shall serve each side of the highway so that students do not have to cross the highway, unless there is a traffic control signal as defined in RCW 46.04.600 or an adult

crossing guard within three hundred feet of the bus stop to assist students while crossing such multiple-lane highways. [1990 c 241 § 11.]

**28A.160.120 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations.** Any school district board of directors or any intermediate school district board may enter into agreements pursuant to chapter 39.34 RCW or chapter 35.58 RCW, as now or hereafter amended, with any city, town, county, metropolitan municipal corporation, and any federal or other state governmental entity, or any combination of the foregoing, for the purpose of providing for the transportation of students and/or members of the public through the use, in whole or part, of the school district's buses, transportation equipment and facilities, and employees: **PROVIDED**, That any agreement entered into for purposes of transportation pursuant to this section shall conform with the provisions of RCW 35.58.250 where applicable and shall provide for the reimbursement and payment to the school district of not less than the district's actual costs and the reasonable value of the use of the district's buses, and transportation equipment and supplies which are incurred and otherwise provided in connection with the transportation of members of the public or other noncommon school purposes: **PROVIDED FURTHER**, That wherever public transportation, or private transportation certified or licensed by the Washington utilities and transportation commission is not reasonably available, the school district or intermediate school district may transport members of the public so long as they are reimbursed for the cost of such transportation, and such transportation has been approved by any metropolitan municipal corporation performing public transportation pursuant to chapter 35.58 RCW in the area to be served by the district. [1974 ex.s. c 93 § 1. Formerly RCW 28A.24.180.]

**28A.160.130 Transportation vehicle fund—Deposits in—Use—Rules for establishment and use.** (1) There is created a fund on deposit with each county treasurer for each school district of the county, which shall be known as the transportation vehicle fund. Money to be deposited into the transportation vehicle fund shall include, but is not limited to, the following:

(a) The balance of accounts held in the general fund of each school district for the purchase of approved transportation equipment and for major transportation equipment repairs under RCW 28A.150.280. The amount transferred shall be the balance of the account as of September 1, 1982;

(b) Reimbursement payments provided for in RCW 28A.160.200 except those provided under RCW 28A.160.200(4) that are necessary for contracted payments to private carriers;

(c) Earnings from transportation vehicle fund investments as authorized in RCW 28A.320.300; and

(d) The district's share of the proceeds from the sale of transportation vehicles, as determined by the superintendent of public instruction.

(2) Funds in the transportation vehicle fund may be used for the following purposes:

(a) Purchase of pupil transportation vehicles pursuant to RCW 28A.160.200 and 28A.150.280;

(b) Payment of conditional sales contracts as authorized in RCW 28A.335.200 or payment of obligations authorized in RCW 28A.530.080, entered into or issued for the purpose of pupil transportation vehicles;

(c) Major repairs to pupil transportation vehicles.

The superintendent of public instruction shall adopt rules which shall establish the standards, conditions, and procedures governing the establishment and use of the transportation vehicle fund. The rules shall not permit the transfer of funds from the transportation vehicle fund to any other fund of the district. [1991 c 114 § 2; 1990 c 33 § 139; 1981 c 265 § 7. Formerly RCW 28A.58.428.]

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.140 Contract for pupil transportation services with private nongovernmental entity—Competitive bid procedures.** As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after July 26, 1987. As used in this section:

(1) "Open competitive process" means either one of the following, at the choice of the school district:

(a) The solicitation of bids or quotations and the award of contracts under RCW 28A.335.190; or

(b) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

(2) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and

(3) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction. [1990 c 33 § 140; 1987 c 141 § 2. Formerly RCW 28A.58.133.]

**Severability—1987 c 141:** See note following RCW 28A.335.170.

**28A.160.150 Student transportation allocation—Operating costs, determination and funding.** Funds allocated for transportation costs shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180

shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). [1990 c 33 § 141; 1983 1st ex.s. c 61 § 2; 1981 c 265 § 1. Formerly RCW 28A.41.505.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—1981 c 265:** "With the exception of sections 8 and 13 of this amendatory act, the effective date of this amendatory act is September 1, 1982. The superintendent of public instruction and the office thereof prior to the effective date of this amendatory act may take such actions as necessary for the orderly implementation thereof and during such period may carry out such data collection activities and district notification provisions as provided for herein." [1981 c 265 § 16.] For codification of 1981 c 265, see Codification Tables, Volume 0.

**Severability—1981 c 265:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 265 § 17.]

**28A.160.160 Student transportation allocation—Definitions.** For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be transported: (a) Is handicapped under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies; or (b) qualifies for an exemption due to hazardous walking conditions.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of handicapped students to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of \*this 1983 act.

(4) "Hazardous walking conditions" means those instances of the existence of dangerous walkways documented by the board of directors of a school district which meet criteria specified in rules adopted by the superintendent of public instruction. A school district that receives an exemption for hazardous walking conditions

should demonstrate that good faith efforts are being made to alleviate the problem and that the district, in cooperation with other state and local governing authorities, is attempting to reduce the incidence of hazardous walking conditions. The superintendent of public instruction shall appoint an advisory committee to prepare guidelines and procedures for determining the existence of hazardous walking conditions. The committee shall include but not be limited to representatives from law enforcement agencies, school districts, the department of transportation, city and county government, the insurance industry, parents, school directors and legislators. [1990 c 33 § 142; 1983 1st ex.s. c 61 § 3; 1981 c 265 § 2. Formerly RCW 28A.41.510.]

**\*Reviser's note:** "This 1983 act" [1983 1st ex.s. c 61] consisted of the amendments to RCW 28A.24.055, 28A.41.505, 28A.41.510, 28A.41.515, 28A.41.520, 28A.41.525, and 28A.44.220, and the repeal of RCW 28A.04.350.

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.170 Student transportation allocation—District's annual report to superintendent.** Each district shall submit to the superintendent of public instruction during October of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW 28A.160.150 for the current school year and the number of miles estimated to be driven for pupil transportation services, along with a map describing student route stop locations and school locations, and (b) the number of miles driven for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys. [1990 c 33 § 143; 1983 1st ex.s. c 61 § 4; 1981 c 265 § 3. Formerly RCW 28A.41.515.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.180 Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report.** Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to

include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; handicapped student load; and small fleet maintenance.

(2) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year. [1990 c 33 § 144; 1985 c 59 § 1; 1983 1st ex.s. c 61 § 5; 1982 1st ex.s. c 24 § 2; 1981 c 265 § 4. Formerly RCW 28A.41.520.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1982 1st ex.s. c 24:** See notes following RCW 28A.150.370.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.190 Student transportation allocation—Notice—Revised eligible student data, when—Allocation payments, amounts, when.** The superintendent shall notify districts of their student transportation allocation before January 15th. If the number of eligible students in a school district changes ten percent or more from the October report, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.510.250. Such allocation payments may be based on estimated amounts for payments to be made in September, October, November, December, and January. [1990 c 33 § 145; 1985 c 59 § 2; 1983 1st ex.s. c 61 § 6; 1982 1st ex.s. c 24 § 3; 1981 c 265 § 5. Formerly RCW 28A.41.525.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1982 1st ex.s. c 24:** See notes following RCW 28A.150.370.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.200 Student transportation vehicle acquisition allocation—Determining vehicle categories and**

**purchase price—Reimbursement schedule—Standards for operation and maintenance—Depreciation schedule.** The superintendent shall determine the vehicle acquisition allocation in the following manner:

(1) By May 1st of each year, the superintendent shall develop preliminary categories of student transportation vehicles to ensure adequate student transportation fleets for districts. The superintendent shall take into consideration the types of vehicles purchased by individual school districts in the state. The categories shall include, but not be limited to, variables such as vehicle capacity, type of chassis, type of fuel, engine and body type, special equipment, and life of vehicle. The categories shall be developed in conjunction with the local districts and shall be applicable to the following school year. The categories shall be designed to produce minimum long-range operating costs, including costs of equipment and all costs incurred in operating the vehicles. Each category description shall include the estimated state-determined purchase price, which shall be based on the actual costs of the vehicles purchased for that comparable category in the state during the preceding twelve months and the anticipated market price for the next school fiscal year. By June 15th of each year, the superintendent shall notify districts of the preliminary vehicle categories and state-determined purchase price for the ensuing school year. By October 15th of each year, the superintendent shall finalize the categories and the associated state-determined purchase price and shall notify districts of any changes. While it is the responsibility of each district to select each student transportation vehicle to be purchased by the district, each district shall be paid a sum based only on the amount of the state-determined purchase price and inflation as recognized by the reimbursement schedule established in this section as set by the superintendent for the category of vehicle purchased.

(2) The superintendent shall develop a reimbursement schedule to pay districts for the cost of student transportation vehicles purchased after September 1, 1982. The accumulated value of the payments and the potential investment return thereon shall be designed to be equal to the replacement value of the vehicle less its salvage value at the end of its anticipated lifetime. The superintendent shall revise at least annually the reimbursement payments based on the current and anticipated future cost of comparable categories of transportation equipment. Reimbursements to school districts for approved transportation equipment shall be placed in a separate vehicle transportation fund established for each school district under RCW 28A.160.130. However, educational service districts providing student transportation services pursuant to RCW 28A.310.180(4) and receiving moneys generated pursuant to this section shall establish and maintain a separate vehicle transportation account in the educational service district's general expense fund for the purposes and subject to the conditions under RCW 28A.160.130 and 28A.320.300.

(3) To the extent possible, districts shall operate vehicles acquired under this section not less than the number of years or useful lifetime now, or hereafter, assigned to

the class of vehicles by the superintendent. School districts shall properly maintain the transportation equipment acquired under the provisions of this section, in accordance with rules established by the office of the superintendent of public instruction. If a district fails to follow generally accepted standards of maintenance and operation, the superintendent of public instruction shall penalize the district by deducting from future reimbursements under this section an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(4) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle. [1990 c 33 § 146; 1987 c 508 § 4; 1981 c 265 § 6. Formerly RCW 28A.41.540.]

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**Transportation vehicle fund—Deposits in—Use—Rules for establishment and use:** RCW 28A.160.130.

**28A.160.210 School bus drivers, training and qualifications—Rules and regulations for.** In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: **PROVIDED**, That such rules and regulations shall insure that school bus drivers are provided a due process hearing before any certification required by such rules and regulations is cancelled: **PROVIDED FURTHER**, That such rules and regulations shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The state board of education may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills. [1989 c 178 § 20; 1981 c 200 § 1; 1979 c 158 § 89; 1969 ex.s. c 153 § 4. Formerly RCW 28A.04.131.]

**Severability—Effective dates—1989 c 178:** See RCW 46.25.900 and 46.25.901.

**28A.160.220 Reimbursement for substitute if employee serves state board or superintendent.** If the superintendent of public instruction or the state board of education, in carrying out their powers and duties under Title 28A RCW, request the service of any certificated employee of a school district upon any committee formed for the purpose of furthering education within the state, or within any school district therein, and such service would result in a need for a school district to employ a substitute for such certificated employee during such service, payment for such a substitute may be made by the superintendent of public instruction from funds appropriated by the legislature for the current use

of the common schools and such payments shall be construed as amounts needed for state support to the common schools under RCW 28A.150.380. If such substitute is paid by the superintendent of public instruction, no deduction shall be made from the salary of the certificated employee. In no event shall a school district deduct from the salary of a certificated employee serving on such committee more than the amount paid the substitute employed by the district. [1990 c 33 § 147; 1973 1st ex.s. c 3 § 1. Formerly RCW 28A.41.180.]

### Chapter 28A.165

#### LEARNING ASSISTANCE PROGRAM

##### Sections

28A.165.010	Intent.
28A.165.012	Program created.
28A.165.030	Definitions.
28A.165.040	Application for state funds—Needs assessment—Plan.
28A.165.050	Identification of students—Coordination of use of funds.
28A.165.060	Services or activities under program.
28A.165.070	Eligibility for funds—Distribution of funds.
28A.165.080	Monitoring.
28A.165.090	Rules.

**28A.165.010 Intent.** The legislature finds that an important and effective means of improving the educational performance of many students with special needs is to improve the general education program. The legislature also finds that there is a continuum of educational program needs among students with learning problems or poor academic performance. The legislature wants to encourage school districts to serve students with special needs within the regular classroom. Therefore, the legislature intends to replace the remediation program with a broader range of program options, without reducing special instructional programs when those services are both necessary and appropriate. The legislature intends to enhance the ability of basic education teachers to identify and address learning problems within the regular classroom. The legislature further intends to stimulate development by local schools and school districts of innovative and effective means of serving students with special needs. The goal is to increase the achievement of students with special needs in a shorter period of time using processes that are more timely, appropriate and effective in producing better outcomes. [1989 c 233 § 1; 1987 c 478 § 1. Formerly RCW 28A.120.010.]

**28A.165.012 Program created.** There is hereby created a state-wide program designed to enhance educational opportunities for public school students who are deficient in basic skills achievement. This program shall be known as the learning assistance program. [1987 c 478 § 2. Formerly RCW 28A.120.012.]

**28A.165.030 Definitions.** Unless the context clearly indicates otherwise the definitions in this section apply throughout RCW 28A.165.010 through 28A.165.090.

(1) "Basic skills" means reading, mathematics, and language arts as well as readiness activities associated with such skills.

(2) "Placement testing" means the administration of objective measures by a school district for the purposes of diagnosing the basic skills achievement levels, determining the basic skills areas of greatest need, and establishing the learning assistance needs of individual students in conformance with instructions established by the superintendent of public instruction for such purposes.

(3) "Approved program" means a program conducted pursuant to a plan submitted by a district and approved by the superintendent of public instruction under RCW 28A.165.040.

(4) "Participating student" means a student in kindergarten through grade nine who scores below grade level in basic skills, as determined by placement testing, and who is identified under RCW 28A.165.050 to receive additional services or support under an approved program.

(5) "Basic skills tests" means state-wide tests at the fourth and eighth grade levels established pursuant to RCW 28A.230.190. [1990 c 33 § 148; 1987 c 478 § 3. Formerly RCW 28A.120.014.]

**28A.165.040 Application for state funds—Needs assessment—Plan.** Each school district which applies for state funds distributed pursuant to RCW 28A.165.070 shall conduct a needs assessment and, on the basis of its findings, shall develop a plan for the use of these funds. The plan may incorporate plans developed by each eligible school. Districts are encouraged to place special emphasis on addressing the needs of students in the early grades. The needs assessment and plan shall be updated at least biennially, and shall be determined in consultation with an advisory committee including but not limited to members of the following groups: Parents, including parents of students served by the program; teachers; principals; administrators; and school directors. The district shall submit a biennial application specifying this plan to the office of the superintendent of public instruction for approval. Plans shall include:

(1) The means which the district will use to identify participating students to receive additional services or support under the proposed program;

(2) The specific services or activities which the funds will be used to support, and their estimated costs;

(3) A plan for annual evaluation of the program by the district, based on performance objectives related to basic skills achievement of participating students, and a plan for reporting the results of this evaluation to the superintendent of public instruction;

(4) Procedures for recordkeeping or other program documentation as may be required by the superintendent of public instruction; and

(5) The approval of the local school district board of directors. [1990 c 33 § 149; 1989 c 233 § 2; 1987 c 478 § 4. Formerly RCW 28A.120.016.]

**28A.165.050 Identification of students—Coordination of use of funds.** Identification of participating students for an approved program of learning assistance shall be determined in each district through the implementation of the findings of the district's needs assessment and through placement testing. School districts are encouraged to coordinate the use of funds from federal, state, and local sources in serving students who are below grade level in basic skills, and to make efficient use of these resources in meeting the needs of students with the greatest academic deficits. [1987 c 478 § 5. Formerly RCW 28A.120.018.]

**28A.165.060 Services or activities under program.** Services or activities which may be supported under an approved program of learning assistance shall include but not be limited to:

(1) Consultant teachers to assist classroom teachers in meeting the needs of participating students;

(2) Instructional support staff and instructional assistants to assist classroom teachers in meeting the needs of participating students;

(3) In-service training for classroom teachers, instructional support staff, and instructional assistants in multicultural differences and the identification of learning problems or in instructional methods for teaching students with learning problems;

(4) Special instructional programs for participating students, of sufficient size, scope, and quality to address the needs of these students and to give reasonable promise of substantial progress toward meeting their educational objectives;

(5) Tutoring assistance during or after school or on Saturday provided by instructional support staff, a student tutor, teacher, or instructional assistant;

(6) In-service training for parents of participating students; and

(7) Counseling, with an emphasis on services for elementary students who are in need of learning assistance, provided by instructional support staff such as school counselors, school psychologists, school nurses, and school social workers. Pursuant to the provisions of \*section 4(2) of this act, learning assistance funds may be used to provide counseling for students who in the absence of counseling would likely become in need of such learning assistance. [1989 c 233 § 3; 1987 c 478 § 6. Formerly RCW 28A.120.020.]

\*Reviser's note: Section 4(2) of this act was vetoed by the governor.

**28A.165.070 Eligibility for funds—Distribution of funds.** Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs. The superintendent of public instruction shall make use of data derived from the basic skills tests in determining the amount of funds for which a district may be eligible. Funds shall be distributed according to the district's total full-time equivalent enrollment in kindergarten through grade nine and the percentage of the district's students taking the basic skills tests who scored in the

lowest quartile as compared with national norms. In making this calculation, the superintendent of public instruction may use an average over the immediately preceding five or fewer years of the district's percentage scoring in the lowest quartile. The superintendent of public instruction shall also deduct the number of students at these age levels who are identified as specific learning disabled and are generating state funds for special education programs conducted pursuant to RCW 28A.155.010 through 28A.155.100, in distributing state funds for learning assistance. The distribution formula in this section is for allocation purposes only. [1990 c 33 § 150; 1987 c 478 § 7. Formerly RCW 28A.120.022.]

**28A.165.080 Monitoring.** In order to insure that school districts are meeting the requirements of an approved program, the superintendent of public instruction shall monitor such programs no less than once every three years. The results of the evaluations required by RCW 28A.165.040 shall be transmitted to the superintendent of public instruction annually. Individual student records shall be maintained at the school district. [1990 c 33 § 151; 1987 c 478 § 8. Formerly RCW 28A.120.024.]

**28A.165.090 Rules.** The superintendent of public instruction shall promulgate rules pursuant to chapter 34.05 RCW which he or she deems necessary to implement RCW 28A.165.010 through 28A.165.080. [1990 c 33 § 152; 1987 c 478 § 9. Formerly RCW 28A.120.026.]

## Chapter 28A.170

### SUBSTANCE ABUSE AWARENESS PROGRAM

#### Sections

28A.170.010 Program established—Goals.

28A.170.020 Rules—Grants—Program areas eligible for funding.

28A.170.030 Application for funding—Procedure.

28A.170.040 Application for continued funding—Contents.

28A.170.050 Advisory committee—Members—Duties.

28A.170.060 Information about programs and penalties—Duties of superintendent through state clearinghouse for education information.

28A.170.070 Conflict with federal laws—RCW 28A.170.020 through 28A.170.060.

28A.170.075 Findings—Intent.

28A.170.080 Grants—Substance abuse intervention.

28A.170.090 Selection of grant recipients—Program rules.

28A.170.100 Promotion of parent and community involvement—Program review.

**28A.170.010 Program established—Goals.** The citizens of the state of Washington recognize the serious impact of alcohol and drug abuse on a student's self-concept and on the ability of students to learn. Therefore, the substance abuse awareness program is established: (1) To aid students in the development of skills that will assist them in making informed decisions concerning the use of drugs and alcohol; (2) to contribute to the development and support of a drug-free educational environment; and (3) to help school districts in the development of comprehensive drug and alcohol policies

leading to the implementation of drug and alcohol programs that contain prevention, intervention, and aftercare components. [1987 c 518 § 205. Formerly RCW 28A.120.030.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

*Prohibition on use of tobacco products on school property:* RCW 28A.210.310.

**28A.170.020 Rules—Grants—Program areas eligible for funding.** The superintendent of public instruction shall adopt rules to implement this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070 and shall distribute to school districts on a grant basis, from moneys appropriated for the purposes of this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070, funds for the development and implementation of educational and disciplinary policies leading to the implementation of prevention, intervention, and aftercare activities regarding the use and abuse of drugs and alcohol. The following program areas may be funded through moneys made available for this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070, including but not limited to:

- (1) Comprehensive program development;
- (2) Prevention programs directed at addressing addictive substances such as alcohol, drugs, and nicotine;
- (3) Elementary identification and intervention programs including counseling programs;
- (4) Secondary identification and intervention programs including counseling programs;
- (5) School drug and alcohol core team development and training;
- (6) Development of referral and preassessment procedures;
- (7) Aftercare;
- (8) Drug and alcohol specialist;
- (9) Staff, parent, student, and community training; and
- (10) Coordination with law enforcement, community service providers, other school districts, educational service districts, and drug and alcohol treatment facilities. [1990 c 33 § 153; 1989 c 233 § 5; 1987 c 518 § 206. Formerly RCW 28A.120.032.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.030 Application for funding—Procedure.**

(1) School districts interested in implementing a substance abuse awareness program shall file an application for state funds with the superintendent of public instruction. The application shall include the following:

(a) A letter of commitment from the board of directors to adopt a comprehensive written policy on drugs and alcohol, and a proposed substance awareness abuse program and implementation plan, within six months of receipt of state funding. The comprehensive policy and program shall address the issues of prevention, intervention, aftercare, and disciplinary policies, and shall emphasize cooperation and coordination of services among public and private agencies, including law enforcement

agencies. If the district's board of directors has already adopted a comprehensive policy and plan, the district shall submit a copy of the comprehensive policy and plan;

(b) A letter of commitment from the board of directors to appoint a school and community substance abuse advisory committee if such a committee has not been established. The advisory committee shall include representatives of at least the following: The school district instructional staff, students, parents, state and local government law enforcement personnel, and the county coordinator of alcohol and drug treatment, or his or her designee, or a representative of other treatment service providers. If the district has already established an advisory committee but its membership does not include members representing any of the groups identified in this subsection, the board of directors shall appoint an additional member or members, if necessary, accordingly. The advisory committee shall work to help coordinate school district programs and services with programs and services available within the community and thereby contribute toward the development of a continuum of prevention, intervention, and after care services within the total community and to avoid the duplication of services; and

(c) A copy of the district's assessment of the scope of the problem of drug and alcohol abuse within the district, as such use and abuse by individuals affects the learning environment in each school.

(2) The district shall demonstrate its plan to provide local matching funds of an amount equal to at least twenty percent of the state funds that the district is eligible to receive. Matching funds may be funds received from federal programs, other funds available to the district, or in-kind contributions: PROVIDED, That in-kind contributions shall be not more than one-half of the minimum matching funds required.

(3) The district shall provide an outline of procedures for evaluating the effectiveness of the district's substance abuse awareness program.

(4) Joint applications and programs may be undertaken by school districts. Districts which elect to participate in a joint program may file a joint application and establish a joint school and community substance abuse advisory committee. [1987 c 518 § 207. Formerly RCW 28A.120.034.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.040 Application for continued funding—Contents.** School districts may apply on an annual basis to the superintendent of public instruction for continued funding of a local substance abuse awareness program meeting the provisions of RCW 28A.170.020 through 28A.170.070 and shall submit an application that includes: (1) Verification of the adoption of comprehensive district policies; (2) proposed changes to the district's substance abuse awareness program, where necessary; (3) proposed areas of expenditures; (4) the district's plan to provide matching funds of an amount to equal at least twenty percent of the state funds for which the district is

eligible; (5) a plan for program evaluation; and (6) a report evaluating the effectiveness of the previously funded program one year after the program is implemented, including all the information required in this section. [1990 c 33 § 154; 1987 c 518 § 208. Formerly RCW 28A.120.036.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.050 Advisory committee—Members—Duties.** The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and noncertificated staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation. [1987 c 518 § 209. Formerly RCW 28A.120.038.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.060 Information about programs and penalties—Duties of superintendent through state clearinghouse for education information.** The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective substance abuse programs and the penalties for manufacturing, selling, delivering, or possessing controlled substances on or within one thousand feet of a school or school bus route stop under RCW 69.50.435 and distributing a controlled substance to a person under the age of eighteen under RCW 69.50.406. [1989 c 271 § 113; 1987 c 518 § 210. Formerly RCW 28A.120.040.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.070 Conflict with federal laws—RCW 28A.170.020 through 28A.170.060.** If any part of RCW 28A.170.020 through 28A.170.060 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of RCW 28A.170.020 through 28A.170.060 is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of RCW 28A.170.020 through 28A.170.060 in its application to the agencies concerned. The rules under RCW 28A.170.020 through 28A.170.060 shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1990 c 33 § 155; 1987 c 518 § 211. Formerly RCW 28A.120.050.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.170.075 Findings—Intent.** (1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) New and existing substance abuse awareness programs funded pursuant to RCW 28A.170.010 through 28A.170.070 do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk. [1990 c 33 § 156; 1989 c 271 § 310. Formerly RCW 28A.120.080.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.170.080 Grants—Substance abuse intervention.** (1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

- (a) Individual and family counseling, including preventive counseling;
- (b) Assessment and referral for treatment;
- (c) Referral to peer support groups;
- (d) Aftercare;
- (e) Development and supervision of student mentor programs;

(f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical



dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under state board of education rules adopted pursuant to RCW 28A.305.130;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020. [1990 c 33 § 157; 1989 c 271 § 311. Formerly RCW 28A.120.082.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.170.090 Selection of grant recipients—Program rules.** (1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall be consistent with the application procedures for other grants for substance abuse awareness programs under RCW 28A.170.020, including provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts, and other grants under RCW 28A.170.010 through 28A.170.040 shall not require a separate application. School districts shall, to the maximum extent feasible,

coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW 28A.170.080 through 28A.170.100. [1990 c 33 § 158; 1989 c 271 § 312. Formerly RCW 28A.120.084.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.170.100 Promotion of parent and community involvement—Program review.** (1) School districts are encouraged to promote parent and community involvement in drug and alcohol abuse prevention and intervention programs, through parent visits under RCW 28A.605.020 and through any school involvement program established by the district.

(2) Districts are further encouraged to review drug and alcohol prevention and intervention programs as part of the self-study procedures required under RCW 28A.320.200 and as part of any annual goal-setting process the district may have established under \*RCW 28A.320.220. [1991 c 116 § 24; 1990 c 33 § 159; 1989 c 271 § 313. Formerly RCW 28A.120.086.]

\*Reviser's note: RCW 28A.320.220 was repealed by 1991 c 116 § 26.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

## Chapter 28A.175

### DROPOUT PREVENTION AND RETRIEVAL PROGRAM

#### Sections

- 28A.175.010 Educational progress information—Reporting requirements—Rules—Reports to legislature.
- 28A.175.020 Intent.
- 28A.175.030 Grants for program development—Distribution of funds.
- 28A.175.040 Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of grants.
- 28A.175.050 Rules.
- 28A.175.060 Task force—Members—Purpose.
- 28A.175.070 Information about programs—Duties of superintendent through state clearinghouse for education information.
- 28A.175.080 High school programs encouraged.
- 28A.175.090 Attendance at nonresident high schools—Expiration of section.

**28A.175.010 Educational progress information—Reporting requirements—Rules—Reports to legislature.** Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students eligible for graduation in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students who enter from other schools;

(f) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(g) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades nine through twelve.

(3) Dropout rates for student populations in each of the grades nine through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades nine through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section. [1991 c 235 § 4; 1986 c 151 § 1. Formerly RCW 28A.58.087.]

**28A.175.020 Intent.** To encourage youth who are considering dropping out of school to remain in school, or youth who have dropped out of school to return to school, it is the intent of the legislature to aid in the

planning and implementation of educational programs for such youth. Furthermore, in recognition that effective assistance at the elementary school level will likely reduce the need for dropout intervention at the secondary level, the legislature intends to encourage early identification of and assistance to students not succeeding in school in the elementary grades. [1987 c 518 § 213. Formerly RCW 28A.120.060.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.030 Grants for program development—Distribution of funds.** (1) The superintendent of public instruction is authorized and shall grant funds to selected school districts to assist in the development of student motivation, retention, and retrieval programs for youth who are at risk of dropping out of school or who have dropped out of school. The purpose of the state assistance for such school district programs is to provide districts the necessary money which will encourage the development by districts or cooperatives of districts of integrated programs for students who are at risk of dropping out of school or who have dropped out of school.

(2) Funds as may be appropriated for the purposes of this section and RCW 28A.175.040 through 28A.175.070 shall be distributed to qualifying school districts for initial planning, development, and implementation of educational programs designed to motivate, retain, and retrieve students.

(3) Funds shall be distributed among qualifying school districts on a per pupil basis in accordance with the following state funding formula: To determine the per pupil allocation, the appropriation for this purpose shall be divided by the total full-time equivalent student population of all qualifying districts as determined on October 1 of the first year of each biennium. The resulting dollar amount shall be multiplied by the current school year October 1 total full-time equivalent student population of each qualifying school district to determine the maximum grant that each qualifying school district is eligible to receive. No district may receive more than is necessary for planning and implementation activities outlined in the district's grant application.

(4) The eligibility of a school district or cooperative of school districts to receive program implementation funds shall be determined once every two years.

(5) Should one or more eligible school districts not request funds available under subsection (3) of this section, the funds may be expended or allocated to other qualifying school districts on a nonformula grant basis by the superintendent of public instruction for the purpose of furthering student motivation, retention, and retrieval programs. [1990 c 33 § 160; 1989 c 209 § 1; 1987 c 518 § 214. Formerly RCW 28A.120.062.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.040 Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of**

**grants.** (1) In distributing grant funds, the superintendent of public instruction shall first award funds to each school district with a dropout rate which, as determined by the superintendent of public instruction, is over time in the top twenty-five percent of all districts' dropout rates.

(2) The superintendent may grant funds to a cooperative of districts which may include one district, or more, whose dropout rate is not in the top twenty-five percent of all districts' dropout rates.

(3) The sum of all grants awarded pursuant to RCW 28A.175.030 through 28A.175.070 for a particular biennium shall not exceed the amount appropriated by the legislature for such purposes. [1990 c 33 § 161; 1989 c 209 § 2; 1987 c 518 § 215. Formerly RCW 28A.120.064.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.050 Rules.** The superintendent of public instruction shall adopt rules to carry out the purposes of RCW 28A.175.030 through 28A.175.070. The rules adopted by the superintendent of public instruction shall include but not be limited to:

(1) Providing for an annual evaluation of the effectiveness of the program;

(2) Requiring that no less than twenty percent of the moneys from the program implementation grant be used for identification and intervention programs in elementary and middle schools;

(3) Establishing procedures allowing school districts to claim basic education allocation funds for students attending a program conducted under RCW 28A.175.030 through 28A.175.070 outside the regular school-year calendar, to the extent such attendance is in lieu of attendance within the regular school-year calendar; and

(4) Evaluating the number of children within an applicant district who fail to complete their elementary and secondary education with priority going to districts with dropout rates over time in the top twenty-five percent of all districts' dropout rates. [1990 c 33 § 162; 1987 c 518 § 217. Formerly RCW 28A.120.068.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.060 Task force—Members—Purpose.** The governor and superintendent of public instruction shall jointly appoint the governor's school dropout prevention task force, cochaired by the governor and the superintendent. The purpose of the task force shall be to make the public aware of the high number of Washington youth who drop out of school, the lifelong economic impact of the decision to drop out, and to encourage all segments of the community to devise new strategies to encourage youth to remain in school.

The task force shall be made up of respected representatives from business, sports, education, the media, students, the legislature, and other sectors of the community. The task force shall promote staying in school through public exposure of the problem and encouraging

all sectors of the community to become involved in addressing this serious problem. [1987 c 518 § 218. Formerly RCW 28A.120.070.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.070 Information about programs—Duties of superintendent through state clearinghouse for education information.** The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective student motivation, retention, and retrieval programs. [1987 c 518 § 219. Formerly RCW 28A.120.072.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.175.080 High school programs encouraged.** The legislature finds that high schools and high school programs designed to meet the diverse needs of students can be an important factor in decreasing the dropout rate. The development of alternative high schools, schools-within-schools, student-centered collaborative learning communities utilizing interdisciplinary strategies, and subject-matter-related schools is encouraged.

High schools are also encouraged to develop programs providing for flexibility in daily, weekly, monthly, and yearly schedules. High schools are further encouraged to develop flexible teaching arrangements, including tutor programs which may include the use of adults, high school students, or college students as tutors, with particular encouragement to consider seeking persons from ethnic and racial minority groups to serve as tutors.

High schools are also encouraged to use research that has been proven effective and has produced significant outcomes in working with both potential dropouts and dropouts. [1989 c 233 § 7. Formerly RCW 28A.120.090.]

**28A.175.090 Attendance at nonresident high schools—Expiration of section.** (1) Beginning with the 1989–1990 school year and concluding at the end of the 1993–1994 school year, any student who has dropped out of high school for six weeks or longer, or has returned from participation in a substance abuse treatment program, or is about to become or is a teen parent, or has returned from hospitalization due to a mental health problem may choose to attend any other high school in the state regardless of residence. Students may attend high school in a nonresident school district only if they are accepted by the high school and pursuant to policies and procedures of the nonresident school district. Receiving school districts may not charge nonresident students tuition. Schools and districts are encouraged to accept students who choose to transfer if they meet these conditions. Basic education funding allocations from the state shall follow the students.

(2) The superintendent of public instruction shall report to the legislature and the governor by December 1,

1994, on the student enrollment patterns pursuant to the provisions of this section.

(3) This section shall expire December 31, 1994. [1989 c 233 § 8. Formerly RCW 28A.120.092.]

### Chapter 28A.180

## TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

#### Sections

- 28A.180.010 Transitional bilingual instruction program—Short title—Purpose.
- 28A.180.020 Transitional bilingual instruction program—Annual report by superintendent of public instruction.
- 28A.180.030 Transitional bilingual instruction program—Definitions.
- 28A.180.040 Transitional bilingual instruction program—School board duties.
- 28A.180.050 Transitional bilingual instruction program—Advisory committee participation.
- 28A.180.060 Transitional bilingual instruction program—Guidelines and rules.
- 28A.180.070 Transitional bilingual instruction program—School districts may enrich.
- 28A.180.080 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test—Gifts and donations.

**28A.180.010 Transitional bilingual instruction program—Short title—Purpose.** RCW 28A.180.010 through 28A.180.080 shall be known and cited as "The Transitional Bilingual Instruction Act." The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.180.010 through 28A.180.080 to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs. [1990 c 33 § 163; 1984 c 124 § 1; 1979 c 95 § 1. Formerly RCW 28A.58.800.]

**Severability—1979 c 95:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 95 § 9.]

**28A.180.020 Transitional bilingual instruction program—Annual report by superintendent of public instruction.** The superintendent of public instruction shall review annually the transitional bilingual instruction program and shall submit a report of such review to the legislature on or before January 1 of each year. [1984 c 124 § 8. Formerly RCW 28A.58.801.]

**28A.180.030 Transitional bilingual instruction program—Definitions.** As used in RCW 28A.180.010 through 28A.180.080, unless the context thereof indicates to the contrary:

- (1) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, That the program shall include testing in the subject matter in English; or

(b) In those cases in which the use of two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning. [1990 c 33 § 164; 1984 c 124 § 2; 1979 c 95 § 2. Formerly RCW 28A.58.802.]

**Severability—1979 c 95:** See note following RCW 28A.180.010.

**28A.180.040 Transitional bilingual instruction program—School board duties.** Every school district board of directors shall:

(1) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction.

(2) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program.

(3) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases. If, however, a preliminary interview indicates little or no English speaking ability, eligibility testing shall not be necessary.

(4) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction.

(5) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models. [1984 c 124 § 3; 1979 c 95 § 3. Formerly RCW 28A.58.804.]

**Effective date—1979 c 95 § 3:** "Section 3 of this act shall take effect September 1, 1980." [1979 c 95 § 7.] Section 3 of this act [1979 c 95], was codified as RCW 28A.58.804.

**Severability—1979 c 95:** See note following RCW 28A.180.010.

**28A.180.050 Transitional bilingual instruction program—Advisory committee participation.** Every school

district board of directors may appoint, maintain, and receive recommendations from an advisory committee which includes parents whose children are in the transitional bilingual instruction program, teachers, and other staff members. [1984 c 124 § 4; 1979 c 95 § 4. Formerly RCW 28A.58.806.]

**Severability**—1979 c 95: See note following RCW 28A.180.010.

**28A.180.060 Transitional bilingual instruction program—Guidelines and rules.** The superintendent of public instruction shall:

(1) Promulgate and issue program development guidelines to assist school districts in preparing their programs;

(2) Promulgate rules for implementation of RCW 28A.180.010 through 28A.180.080 in accordance with chapter 34.05 RCW. The rules shall be designed to maximize the role of school districts in selecting programs appropriate to meet the needs of eligible students. The rules shall identify the process and criteria to be used to determine when a student is no longer eligible for transitional bilingual instruction pursuant to RCW 28A.180.010 through 28A.180.080. [1990 c 33 § 165; 1984 c 124 § 5; 1979 c 95 § 5. Formerly RCW 28A.58.808.]

**Severability**—1979 c 95: See note following RCW 28A.180.010.

**28A.180.070 Transitional bilingual instruction program—School districts may enrich.** School districts may enrich the programs required by RCW 28A.180.010 through 28A.180.080: PROVIDED, That such enrichment shall not constitute a basic education responsibility of the state. [1990 c 33 § 166; 1984 c 124 § 6. Formerly RCW 28A.58.809.]

**28A.180.080 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test—Gifts and donations.** The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs. Moneys appropriated by the legislature for the purposes of RCW 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district: PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills. School districts are hereby empowered to accept grants, gifts, donations, devices and other gratuities from private and public sources to aid in accomplishing the purposes of RCW 28A.180.010 through

28A.180.080. [1990 c 33 § 167; 1979 c 95 § 6. Formerly RCW 28A.58.810.]

**Severability**—1979 c 95: See note following RCW 28A.180.010.

## Chapter 28A.185

### HIGHLY CAPABLE STUDENTS

#### Sections

- 28A.185.010 Program—Duties of superintendent of public instruction.
- 28A.185.020 Funding.
- 28A.185.030 Programs—Authority of local school districts—Selection of students.
- 28A.185.040 Contracts with University of Washington for education of highly capable students at early entrance program or transition school—Allocation of funds—Rules.

**28A.185.010 Program—Duties of superintendent of public instruction.** Pursuant to rules and regulations adopted by the superintendent of public instruction for the administration of this chapter, the superintendent of public instruction shall carry out a program for highly capable students. Such program may include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, providing statewide staff development, and allocating to school districts supplementary funds for additional costs of district programs, as provided by RCW 28A.185.020. [1984 c 278 § 12. Formerly RCW 28A.16.040.]

**Severability**—1984 c 278: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 278 § 24.]

**28A.185.020 Funding.** Supplementary funds as may be provided by the state for this program, in accordance with RCW 28A.150.370, shall be categorical funding on an excess cost basis based upon a per student amount not to exceed three percent of any district's full-time equivalent enrollment. [1990 c 33 § 168; 1984 c 278 § 14. Formerly RCW 28A.16.050.]

**Severability**—1984 c 278: See note following RCW 28A.185.010.

**28A.185.030 Programs—Authority of local school districts—Selection of students.** Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules and regulations adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students. Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each

student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.

(2) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose. [1984 c 278 § 13. Formerly RCW 28A.16.060.]

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**28A.185.040 Contracts with University of Washington for education of highly capable students at early entrance program or transition school—Allocation of funds—Rules.** (1) The superintendent of public instruction shall contract with the University of Washington for the education of highly capable students below eighteen years of age who are admitted or enrolled at such early entrance program or transition school as are now or hereafter established and maintained by the University of Washington.

(2) The superintendent of public instruction shall allocate directly to the University of Washington all of the state basic education allocation moneys, state categorical moneys excepting categorical moneys provided for the highly capable students program under RCW 28A.185.010 through 28A.185.030, and federal moneys generated by a student while attending an early entrance program or transition school at the University of Washington. The allocations shall be according to each student's school district of residence. The expenditure of such moneys shall be limited to selection of students, precollege instruction, special advising, and related activities necessary for the support of students while attending a transition school or early entrance program at the University of Washington. Such allocations may be supplemented with such additional payments by other parties as necessary to cover the actual and full costs of such instruction and other activities.

(3) The provisions of subsections (1) and (2) of this section shall apply during the first three years a student is attending a transition school or early entrance program at the University of Washington or through the academic school year in which the student turns eighteen, whichever occurs first. No more than thirty students shall be admitted and enrolled in the transition school at the University of Washington in any one year.

(4) The superintendent of public instruction shall adopt or amend rules pursuant to chapter 34.05 RCW implementing subsection (2) of this section before August 31, 1989. [1990 c 33 § 169; 1989 c 233 § 9; 1987 c 518 § 222. Formerly RCW 28A.58.217.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

## Chapter 28A.190

### RESIDENTIAL EDUCATION PROGRAMS

#### Sections

- 28A.190.010 Educational program for juveniles in detention facilities.
- 28A.190.020 Educational programs for residential school residents—"Residential school" defined.
- 28A.190.030 Educational programs for residential school residents—School district to conduct—Scope of duties and authority.
- 28A.190.040 Educational programs for residential school residents—Duties and authority of DSHS and residential school superintendent.
- 28A.190.050 Educational programs for residential school residents—Contracts between school district and DSHS—Scope.
- 28A.190.060 Educational programs for residential school residents—DSHS to give notice when need for reduction of staff—Liability upon failure.

**28A.190.010 Educational program for juveniles in detention facilities.** A program of education shall be provided for by the department of social and health services and the several school districts of the state for common school age persons who have been admitted to facilities staffed and maintained by the department of social and health services for the education and treatment of juveniles who have been diverted or who have been found to have committed a juvenile offense. The division of duties, authority, and liabilities of the department of social and health services and the several school districts of the state respecting the educational programs shall be the same in all respects as set forth in RCW 28A.190.030 through 28A.190.060 respecting programs of education for state residential school residents. For the purposes of this section, the term "residential school" or "schools" as used in RCW 28A.190.030 through 28A.190.060 shall be construed to mean a facility staffed and maintained by the department of social and health services for the education and treatment of juvenile offenders on probation or parole. Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW 28A.310.180. [1990 c 33 § 170; 1983 c 98 § 3. Formerly RCW 28A.58.765.]

*Juvenile facilities, educational programs: RCW 13.04.145.*

**28A.190.020 Educational programs for residential school residents—"Residential school" defined.** The term "residential school" as used in RCW 28A.190.020 through 28A.190.060, 72.01.200, 72.05.010 and 72.05.130, each as now or hereafter amended, shall mean Green Hill school, Maple Lane school, Naselle Youth Camp, Cedar Creek Youth Camp, Mission Creek Youth Camp, Echo Glen, Lakeland Village, Rainier school, Yakima Valley school, Interlake school, Fircrest school, Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, and such other schools, camps, and centers as are now or hereafter established by the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts or for the care and treatment of persons who are exceptional in their needs by reason of mental

and/or physical deficiency: PROVIDED, That the term shall not include the state schools for the deaf and blind or adult correctional institutions. [1990 c 33 § 171; 1979 ex.s. c 217 § 1. Formerly RCW 28A.58.770.]

**Effective date**—1979 ex.s. c 217: "This act shall take effect on September 1, 1979." [1979 ex.s. c 217 § 16.]

**Severability**—1979 ex.s. c 217: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 217 § 17.]

**28A.190.030 Educational programs for residential school residents—School district to conduct—Scope of duties and authority.** Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or pursuant to chapter 39.34 RCW, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.190.050, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to RCW 28A.155.010 through 28A.155.100, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a preschool special education program may be provided for handicapped residential school students;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students

for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education. [1990 c 33 § 172; 1985 c 341 § 13; 1984 c 160 § 3; 1979 ex.s. c 217 § 2. Formerly RCW 28A.58.772.]

**Effective date**—1985 c 341 §§ 4 and 13: See note following RCW 28A.155.020.

**Severability**—1984 c 160: See note following RCW 28A.155.020.

**Effective date**—**Severability**—1979 ex.s. c 217: See notes following RCW 28A.190.020.

**28A.190.040 Educational programs for residential school residents—Duties and authority of DSHS and residential school superintendent.** The duties and authority of the department of social and health services and of each superintendent or chief administrator of a residential school to support each program of education conducted by a school district pursuant to RCW 28A.190.030, shall include the following:

(1) The provision of transportation for residential school students to and from the sites of the program of education through the purchase, lease or rental of school buses and other vehicles as necessary;

(2) The provision of safe and healthy building and playground space for the conduct of the program of education through the construction, purchase, lease or rental of such space as necessary;

(3) The provision of furniture, vocational instruction machines and tools, building and playground fixtures, and other equipment and fixtures for the conduct of the program of education through construction, purchase, lease or rental as necessary;

(4) The provision of heat, lights, telephones, janitorial services, repair services, and other support services for the vehicles, building and playground spaces, equipment and fixtures provided for in this section;

(5) The employment, supervision and control of persons to transport students and to maintain the vehicles, building and playground spaces, equipment and fixtures, provided for in this section;

(6) Clinical and medical evaluation services necessary to a determination by the school district of the educational needs of residential school students; and

(7) Such other support services and facilities as are reasonably necessary for the conduct of the program of education. [1990 c 33 § 173; 1979 ex.s. c 217 § 3. Formerly RCW 28A.58.774.]

**Effective date**—**Severability**—1979 ex.s. c 217: See notes following RCW 28A.190.020.

**28A.190.050 Educational programs for residential school residents—Contracts between school district and DSHS—Scope.** Each school district required to

conduct a program of education pursuant to RCW 28A.190.030, and the department of social and health services shall hereafter negotiate and execute a written contract for each school year or such longer period as may be agreed to which delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved. Any such contract may provide for the performance of duties by a school district in addition to those set forth in RCW 28A.190.030 (1) through (5), including duties imposed upon the department of social and health services and its agents pursuant to RCW 28A.190.040: PROVIDED, That funds identified in RCW 28A.190.030(6) and/or funds provided by the department of social and health services are available to fully pay the direct and indirect costs of such additional duties and the district is otherwise authorized by law to perform such duties in connection with the maintenance and operation of a school district. [1990 c 33 § 174; 1979 ex.s. c 217 § 4. Formerly RCW 28A.58.776.]

**Effective date—Severability—1979 ex.s. c 217:** See notes following RCW 28A.190.020.

**28A.190.060 Educational programs for residential school residents—DSHS to give notice when need for reduction of staff—Liability upon failure.** The department of social and health services shall provide written notice on or before April 15th of each school year to the superintendent of each school district conducting a program of education pursuant to RCW 28A.190.030 through 28A.190.050 of any foreseeable residential school closure, reduction in the number of residents, or any other cause for a reduction in the school district's staff for the next school year. In the event the department of social and health services fails to provide notice as prescribed by this section, the department shall be liable and responsible for the payment of the salary and employment related costs for the next school year of each school district employee whose contract the school district would have nonrenewed but for the failure of the department to provide notice. [1990 c 33 § 175; 1979 ex.s. c 217 § 5. Formerly RCW 28A.58.778.]

**Effective date—Severability—1979 ex.s. c 217:** See notes following RCW 28A.190.020.

## Chapter 28A.195 PRIVATE SCHOOLS

### Sections

- 28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope of state control—Generally.
- 28A.195.020 Private schools—Rights recognized.
- 28A.195.030 Private schools—Actions appealable under Administrative Procedure Act.
- 28A.195.040 Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited.
- 28A.195.050 Private school advisory committee.
- 28A.195.060 Private schools must report attendance.

**28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope**

[1990-91 RCW Supp—page 450]

**of state control—Generally.** The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum program hour offerings as prescribed in RCW 28A.150.220.

(2) The school day shall be the same as that required in RCW 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) above provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved. [1990 c 33 § 176. Prior: 1985 c 441 § 4; 1985 c 16 § 1; 1983 c 56 § 1; 1977 ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2. Formerly RCW 28A.02.201.]

**Severability—1985 c 441:** See note following RCW 28A.225.010.

**Severability—1983 c 56:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 56 § 18.]

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**Authorization for private school students to ride buses—Conditions:** RCW 28A.160.020.

**Basic Education Act of 1977, RCW 28A.195.010 as part of:** RCW 28A.150.200.

**Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants—Budgets:** RCW 28A.320.080.

**Home-based instruction:** RCW 28A.200.010.

**Immunization program, private schools as affecting:** RCW 28A.210.060 through 28A.210.170.

**Part-time students—Defined—Enrollment in public schools authorized:** RCW 28A.150.350.

**Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation:** RCW 28A.335.120.

**Surplus school property, rental, lease or use of—Authorized—Limitations:** RCW 28A.335.040.

**Surplus texts and other educational aids, notice of availability—Student priority as to texts:** RCW 28A.335.180.

**28A.195.020 Private schools—Rights recognized.** The state recognizes the following rights of every private school:

(1) To teach their religious beliefs and doctrines, if any; to pray in class and in assemblies; to teach patriotism including requiring students to salute the flag of the United States if that be the custom of the particular private school.

(2) To require that there shall be on file the written consent of parents or guardians of students prior to the administration of any psychological test or the conduct of any type of group therapy. [1974 ex.s. c 92 § 3; 1971 ex.s. c 215 § 5. Formerly RCW 28A.02.220.]

**Severability—1971 ex.s. c 215:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 215 § 8.]

**28A.195.030 Private schools—Actions appealable under Administrative Procedure Act.** Any private school may appeal the actions of the state superintendent of public instruction or state board of education as provided in chapter 34.05 RCW. [1974 ex.s. c 92 § 4; 1971 ex.s. c 215 § 6. Formerly RCW 28A.02.230.]

**28A.195.040 Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited.** The state board of education shall promulgate rules and regulations for the enforcement of RCW 28A.195.010 through 28A.195.040, 28A.225.010, and 28A.305.130, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination. [1990 c 33 § 177; 1983 c 3 § 29; 1974 ex.s. c 92 § 5; 1971 ex.s. c 215 § 7. Formerly RCW 28A.02.240.]

**28A.195.050 Private school advisory committee.** The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. [1984 c 40 § 1; 1974 ex.s. c 92 § 6. Formerly RCW 28A.02.250.]

**Severability—1984 c 40:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 40 § 17.]

**28A.195.060 Private schools must report attendance.** It shall be the duty of the administrative or executive authority of every private school in this state to report to the educational service district superintendent on or before the thirtieth day of June in each year, on a form to be furnished, such information as may be required by the superintendent of public instruction, to make complete the records of education work pertaining to all children residing within the state. [1975 1st ex.s. c 275 § 70; 1969 ex.s. c 176 § 111; 1969 ex.s. c 223 § 28A.48.055. Prior: 1933 c 28 § 14; 1913 c 158 § 1; 1909 c 97 p 313 § 6; RRS § 4876. Formerly RCW 28A.48.055, 28A.48.055, 28.27.020.]

~~Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.~~

### Chapter 28A.200 HOME-BASED INSTRUCTION

#### Sections

- 28A.200.010 Home-based instruction—Duties of parents.  
28A.200.020 Home-based instruction—Certain decisions responsibility of parent unless otherwise specified.

**28A.200.010 Home-based instruction—Duties of parents.** Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4). [1990 c 33 § 178; 1985 c 441 § 2. Formerly RCW 28A.27.310.]

~~Severability—1985 c 441: See note following RCW 28A.225.010.~~

~~Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.~~

~~Private schools—Extension programs for parents to teach children in their custody: RCW 28A.195.010.~~

**28A.200.020 Home-based instruction—Certain decisions responsibility of parent unless otherwise specified.** The state hereby recognizes that parents who are causing their children to receive home-based instruction under RCW 28A.225.010(4) shall be subject only to those minimum state laws and regulations which are necessary to insure that a sufficient basic educational opportunity is provided to the children receiving such instruction. Therefore, all decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum, and methods, timing, and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent except for matters specifically referred to in this chapter. [1990 c 33 § 179; 1985 c 441 § 3. Formerly RCW 28A.27.320.]

~~Severability—1985 c 441: See note following RCW 28A.225.010.~~

### Chapter 28A.205 EDUCATIONAL CLINICS

#### Sections

- 28A.205.010 "Educational clinic," "basic academic skills," defined—Certification as educational clinic and withdrawal thereof.  
28A.205.020 Reimbursement only for eligible common school dropouts.  
28A.205.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test.  
28A.205.040 Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records.  
28A.205.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes.  
28A.205.060 Report to legislature by superintendent of public instruction—Contents—Update.  
28A.205.070 Allocation of funds—Criteria—Duties of superintendent.  
28A.205.080 Legislative findings—Distribution of funds—Cooperation with school districts.  
28A.205.090 Inclusion of educational clinics program in biennial budget request—Quarterly plans—Funds—Payment.

**28A.205.010 "Educational clinic," "basic academic skills," defined—Certification as educational clinic and withdrawal thereof.** (1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

Educational clinic means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the state board of education according to rules and regulations promulgated for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an educational clinic shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education clinic only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) above and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a clinic fails to provide adequate instruction in basic academic skills. No educational clinic certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050. [1990 c 33 § 180; 1983 c 3 § 38; 1977 ex.s. c 341 § 1. Formerly RCW 28A.97.010.]

**Severability—1977 ex.s. c 341:** "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 341 § 7.]

**28A.205.020 Reimbursement only for eligible common school dropouts.** Only eligible common school dropouts shall be enrolled in a certified educational clinic for reimbursement by the superintendent of public instruction as provided in RCW 28A.205.040. No person shall be considered an eligible common school dropout who (1) has completed high school, (2) who has not reached his or her thirteenth birthday or has passed his or her twentieth birthday, or (3) shows proficiency beyond the high school level in a test approved by the superintendent of public instruction to be given as part of the initial diagnostic procedure, or (4) until one month has passed after he or she has dropped out of any common school and the educational clinic has received written verification from a school official of the common school last attended in this state that such person is no longer in attendance at such school, unless such clinic has been requested to admit such person by written communication of the board of directors or its designee, of that common school, or unless such person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion therefrom. The fact that any person may be subject to RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as

an eligible common school dropout under this chapter. [1990 c 33 § 181; 1979 ex.s. c 174 § 1; 1977 ex.s. c 341 § 2. Formerly RCW 28A.97.020.]

**Severability—1979 ex.s. c 174:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 174 § 4.]

**Severability—1977 ex.s. c 341:** See note following RCW 28A.205.010.

**28A.205.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test.** The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: **PROVIDED**, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified educational clinic student, upon completion of an individual student program and irrespective of age, shall be eligible to take the general educational development test as given throughout the state. [1990 c 33 § 182; 1977 ex.s. c 341 § 3. Formerly RCW 28A.97.030.]

**Severability—1977 ex.s. c 341:** See note following RCW 28A.205.010.

**28A.205.040 Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records.** From funds appropriated for that purpose, the superintendent of public instruction shall pay to a certified clinic on a monthly basis for each student enrolled in compliance with RCW 28A.205.020, fees in accordance with the following conditions:

(1) (a) The fee for the initial diagnostic procedure shall be not more than fifty dollars per student, and hourly fees for each student shall be sixteen dollars if the class size is no greater than one, ten dollars if the class size is at least two and no greater than five, and five dollars if the class size is at least six: **PROVIDED**, That revisions in such fees proposed by an education clinic shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect: **PROVIDED FURTHER**, That an education clinic may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision: **AND PROVIDED FURTHER**, That the administration of any general education development test shall not be a part of such initial diagnostic procedure.

(b) Reimbursements shall not be made for students who are absent.

(c) No clinic shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those clinic(s) which have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit clinics the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such clinic, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the clinics of the date after which further funds for reimbursement of the clinics' services will be exhausted. [1990 c 33 § 183; 1979 ex.s. c 174 § 2; 1977 ex.s. c 341 § 4. Formerly RCW 28A.97.040.]

**Severability—1979 ex.s. c 174:** See note following RCW 28A.205.020.

**Severability—1977 ex.s. c 341:** See note following RCW 28A.205.010.

**28A.205.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes.** In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules and regulations to carry out the purpose and intent of this chapter.

Criteria as promulgated by the state board of education or superintendent of public instruction for determining if any educational clinic is providing adequate instruction in basic academic skills or demonstrating superior performance in student educational gains for funding under RCW 28A.205.040 shall be subject to review by four members of the legislature, one from each caucus of each house, including the chairs of the respective education committees. [1990 c 33 § 184; 1977 ex.s. c 341 § 5. Formerly RCW 28A.97.050.]

**Severability—1977 ex.s. c 341:** See note following RCW 28A.205.010.

**28A.205.060 Report to legislature by superintendent of public instruction—Contents—Update.** The superintendent of public instruction shall prepare a report on educational clinics that:

(1) Identifies a funding level that is adequate to fund the enrollment served by educational clinics during the previous fiscal year;

(2) Identifies locales in the state which are served by educational clinics but where demand for educational clinic services will support additional service, and recommends the funding level necessary to serve such demand;

(3) Identifies locales in the state which are not served by educational clinics but where demand will support operation of clinics, and recommends the funding level necessary to serve such demand; and

(4) Identifies locales in the state that are either underserved or not served by existing public school programs for drop-outs or for drop-out prevention, but where demand will support such services and recommends the funding level necessary to serve such demand.

The report shall be submitted to the legislature by January 1 in the year following June 27, 1985, and updates of the report shall be submitted with each biennial budget request until such time as funding levels reach the levels recommended in subsections (2) and (3) of this section. [1985 c 434 § 2. Formerly RCW 28A.97.110.]

**Contingency—Effective date—1985 c 434 § 2:** "If specific funding for the purposes of section 2 of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, section 2 of this act shall be null and void. Section 2 of this act shall be of no effect until such specific funding is provided. If such funding is so provided, section 2 of this act shall take effect when the legislation providing the funding takes effect." [1985 c 434 § 6.]

**Reviser's note:** (1) 1985 ex.s. c 6 § 501 provides specific funding for section 2 of this act [RCW 28A.97.110].

(2) 1985 ex.s. c 6 took effect June 27, 1985.

**Intent—1985 c 434:** "It is the intent of this act to provide for an equitable distribution of funds appropriated for educational clinics, to stabilize existing programs, and to provide a system for orderly expansion or retrenchment in the event of future increases or reductions in program appropriations." [1985 c 434 § 1.]

**28A.205.070 Allocation of funds—Criteria—Duties of superintendent.** In allocating funds appropriated for educational clinics, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for educational clinics that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded clinic programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education clinic services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal as judged by the criteria established in \*RCW 28A.97.100(1) and (2); and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded educational clinics programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing clinics programs, if any;

(b) The availability within the geographic area of programs other than educational clinics which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded educational clinic programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all clinics funded at the time of the lowered appropriation. Individual clinics may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the clinic's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the clinic to continue operation.

(5) In the event that an additional clinic or clinics become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional clinic or clinics to operate at minimally acceptable levels of service without reducing the funds available to previously funded clinics, the superintendent shall not provide funding for such additional clinic or clinics from such appropriation. [1990 c 33 § 185; 1985 c 434 § 3. Formerly RCW 28A.97.120.]

\*Reviser's note: RCW 28A.97.100 was repealed by 1986 c 158 § 25.  
Intent—1985 c 434: See note following RCW 28A.205.060.

**28A.205.080 Legislative findings—Distribution of funds—Cooperation with school districts.** The legislature recognizes that educational clinics provide a necessary and effective service for students who have dropped out of common school programs. Educational clinics have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative appropriations, allocated specifically for educational clinics in accord with chapter 28A.205 RCW. The legislature encourages school districts to explore cooperation with educational clinics. [1990 c 33 § 186; 1987 c 518 § 220. Formerly RCW 28A.97.125.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

**28A.205.090 Inclusion of educational clinics program in biennial budget request—Quarterly plans—Funds—Payment.** The superintendent shall include the educational clinics program in the biennial budget request. Contracts between the superintendent of public instruction and the educational clinics shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual clinics. Funds which are not expended by a clinic during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the clinics on a monthly basis pursuant to RCW 28A.205.040. [1990 c 33 § 187; 1985 c 434 § 4. Formerly RCW 28A.97.130.]

Intent—1985 c 434: See note following RCW 28A.205.060.

## Chapter 28A.210

### HEALTH—SCREENING AND REQUIREMENTS

#### Sections

- 28A.210.005 Transfer of duties to the department of health.
- 28A.210.010 Contagious diseases, limiting contact—Rules and regulations.
- 28A.210.020 Visual and auditory screening of pupils—Rules and regulations.
- 28A.210.030 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data.
- 28A.210.040 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution.
- 28A.210.050 Sight-saving equipment.
- 28A.210.060 Immunization program—Purpose.
- 28A.210.070 Immunization program—Definitions.
- 28A.210.080 Immunization program—Attendance of child conditioned upon presentation of alternative proofs.
- 28A.210.090 Immunization program—Exemptions from on presentation of alternative certifications.
- 28A.210.100 Immunization program—Source of immunizations—Written records.
- 28A.210.110 Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption.
- 28A.210.120 Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents.
- 28A.210.130 Immunization program—Superintendent of public instruction to provide information.
- 28A.210.140 Immunization program—State board of health rules, contents.
- 28A.210.150 Immunization program—Superintendent of public instruction by rule to adopt procedures for verifying records.
- 28A.210.160 Immunization program—State board of education rules, contents.
- 28A.210.170 Immunization program—Department of social and health services' rules, contents.
- 28A.210.180 Screening program for scoliosis—Purpose.
- 28A.210.190 Screening program for scoliosis—Definitions.
- 28A.210.200 Screening program for scoliosis—Examination of children—Personnel making examinations, training for.
- 28A.210.210 Screening program for scoliosis—Records—Parents or guardians notification, contents.
- 28A.210.220 Screening program for scoliosis—Distribution of rules, records and forms.
- 28A.210.230 Repealed.
- 28A.210.240 Screening program for scoliosis—Pupils exempt, when.
- 28A.210.250 Screening program for scoliosis—Sanctions against school officials failing to comply.
- 28A.210.260 Public and private schools—Administration of oral medication by—Conditions.
- 28A.210.270 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure.
- 28A.210.280 Catheterization of public and private school students.
- 28A.210.290 Catheterization of public and private school students—Immunity from liability.
- 28A.210.300 School physician or school nurse may be employed.
- 28A.210.310 Prohibition on use of tobacco products on school property.

**28A.210.005 Transfer of duties to the department of health.** The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health. [1989 1st ex.s. c 9 § 239. Formerly RCW 28A.31.005.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**28A.210.010 Contagious diseases, limiting contact—Rules and regulations.** The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules and regulations regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules and regulations shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall print and distribute the rules and regulations of the state board of health above provided to appropriate school officials and personnel. [1971 c 32 § 1; 1969 ex.s. c 223 § 28A.31.010. Prior: 1909 c 97 p 262 § 5; RRS § 4689; prior: 1897 c 118 § 68; 1890 p 372 § 47. Formerly RCW 28A.31.010, 28.31.010.]

**28A.210.020 Visual and auditory screening of pupils—Rules and regulations.** Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. [1971 c 32 § 2; 1969 ex.s. c 223 § 28A.31.030. Prior: 1941 c 202 § 1; Rem. Supp. 1941 § 4689-1. Formerly RCW 28A.31.030, 28.31.030.]

**28A.210.030 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data.** The person or persons completing the screening prescribed in RCW 28A.210.020 shall promptly prepare a record of the screening of each child found to have, or suspected of having, reduced visual and/or auditory acuity in need of attention, including the special education services provided by RCW 28A.155.010 through 28A.155.100, and send copies of such records and recommendations to the parents or guardians of such children and shall deliver the original records to the appropriate school official who shall preserve such records and forward to the superintendent of public instruction and the secretary of health visual and auditory data as requested by such officials. [1991 c 3 § 289; 1990 c 33 § 188; 1971 c 32 § 3; 1969 ex.s. c 223 § 28A.31.040. Prior: 1941 c 202 § 2; Rem. Supp. 1941 § 4689-2. Formerly RCW 28A.31.040, 28.31.040.]

**28A.210.040 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution.** The superintendent of public instruction shall print and distribute to appropriate school officials the rules and regulations adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings. [1990 c 33 § 189; 1973 c 46 § 1. Prior: 1971 c 48 § 12; 1971 c 32 § 4; 1969 ex.s. c 223 § 28A.31.050; prior: 1941 c 202 § 3; RRS § 4689-3. Formerly RCW 28A.31.050, 28.31.050.]

**Severability—1973 c 46:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 46 § 5.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.210.050 Sight-saving equipment.** In order to enable children in public schools who have defective vision to enjoy comparable educational opportunities with children of normal sight, the superintendent of public instruction shall provide for the benefit of such children sight-saving equipment as may be deemed necessary to accomplish such purpose. Any equipment so purchased shall be the property of the superintendent of public instruction and shall be loaned to public schools for the use of children with defective vision where the number of such children does not warrant the establishment of a sight-saving class or as otherwise required. Such sight-saving equipment shall be made available upon the recommendation of an eye physician that such equipment is necessary to enable a child to enjoy educational opportunities equal to those of children of normal sight. [1969 ex.s. c 223 § 28A.31.060. Prior: 1941 c 251 § 1; Rem. Supp. 1941 § 4689-4. Formerly RCW 28A.31.060, 28.31.060.]

**28A.210.060 Immunization program—Purpose.** In enacting RCW 28A.210.060 through 28A.210.170, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases. [1990 c 33 § 190; 1984 c 40 § 3; 1979 ex.s. c 118 § 1. Formerly RCW 28A.31.100.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—1979 ex.s. c 118:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 1, 1979." [1979 ex.s. c 118 § 13.]

**Severability—1979 ex.s. c 118:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 118 § 16.]

**28A.210.070 Immunization program—Definitions.** As used in RCW 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing

for the purposes of RCW 28A.210.060 through 28A.210.170 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130(6), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center. [1990 c 33 § 191; 1985 c 49 § 2; 1984 c 40 § 4; 1979 ex.s. c 118 § 2. Formerly RCW 28A.31.102.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.080 Immunization program—Attendance of child conditioned upon presentation of alternative proofs.** The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center. [1990 c 33 § 192; 1985 c 49 § 1; 1979 ex.s. c 118 § 3. Formerly RCW 28A.31.104.]

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.090 Immunization program—Exemptions from on presentation of alternative certifications.** Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of health:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: **PROVIDED**, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. [1991 c 3 § 290; 1990 c 33 § 193; 1984 c 40 § 5; 1979 ex.s. c 118 § 4. Formerly RCW 28A.31.106.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.100 Immunization program—Source of immunizations—Written records.** The immunizations required by RCW 28A.210.060 through 28A.210.170 may be obtained from any private or public source desired: **PROVIDED**, That the immunization is administered and records are made in accordance with the regulations of the state board of health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health. [1990 c 33 § 194; 1984 c 40 § 7; 1979 ex.s. c 118 § 6. Formerly RCW 28A.31.110.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.110 Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption.** A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW

28A.210.120 for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of health on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of health; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying. [1991 c 3 § 291; 1990 c 33 § 195; 1979 ex.s. c 118 § 7. Formerly RCW 28A.31.112.]

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.120 Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents.** It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies. [1990 c 33 § 196; 1985 c 49 § 3; 1984 c 40 § 8; 1979 ex.s. c 118 § 8. Formerly RCW 28A.31.114.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.130 Immunization program—Superintendent of public instruction to provide information.** The superintendent of public instruction shall provide for information about the immunization program and requirements under RCW 28A.210.060 through 28A.210.170 to be widely available throughout the state in order to promote full use of the program. [1990 c 33 § 197; 1985 c 49 § 4. Formerly RCW 28A.31.115.]

**28A.210.140 Immunization program—State board of health rules, contents.** The state board of health shall adopt and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive requirements for full immunization and the form and substance of the proof thereof, to be required pursuant to RCW 28A.210.060 through 28A.210.170. [1990 c 33 § 198; 1984 c 40 § 9; 1979 ex.s. c 118 § 9. Formerly RCW 28A.31.116.]

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.150 Immunization program—Superintendent of public instruction by rule to adopt procedures for verifying records.** The superintendent of public instruction by rule shall provide procedures for schools to quickly verify the immunization records of students transferring from one school to another before the immunization records are received. [1985 c 49 § 5. Formerly RCW 28A.31.117.]

**28A.210.160 Immunization program—State board of education rules, contents.** The state board of education shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from public and private schools pursuant to RCW 28A.210.120. [1990 c 33 § 199; 1979 ex.s. c 118 § 10. Formerly RCW 28A.31.118.]

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.170 Immunization program—Department of social and health services' rules, contents.** The department of social and health services shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from day care centers pursuant to RCW 28A.210.120. [1990 c 33 § 200; 1979 ex.s. c 118 § 11. Formerly RCW 28A.31.120.]

**Effective date—Severability—1979 ex.s. c 118:** See notes following RCW 28A.210.060.

**28A.210.180 Screening program for scoliosis—Purpose.** The legislature recognizes that the condition known as scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of RCW 28A.210.180 through 28A.210.250 is to recognize that a school screening program is an invaluable tool for detecting the number of adolescents with scoliosis. It is the intent of the legislature to insure that the superintendent of public instruction provide and require screening of children for the condition known as scoliosis, to ascertain which, if any, of these children have defects requiring corrective treatment. [1991 c 86 § 1; 1990 c 33 § 201;

1985 c 216 § 1; 1979 c 47 § 1. Formerly RCW 28A.31.130.]

**Severability—1979 c 47:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 47 § 8.]

**28A.210.190 Screening program for scoliosis—Definitions.** As used in RCW 28A.210.180 through 28A.210.250, the following terms have the meanings indicated.

(1) "Superintendent" means the superintendent of public instruction of public schools in the state, or the superintendent's designee.

(2) "Pupil" means a student enrolled in the public school system in the state.

(3) "Scoliosis" includes idiopathic scoliosis and kyphosis.

(4) "Screening" means an examination to be performed for the purpose of detecting the condition known as scoliosis.

(5) "Public schools" means the common schools referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. [1991 c 86 § 2; 1990 c 33 § 202; 1985 c 216 § 2; 1979 c 47 § 2. Formerly RCW 28A.31.132.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.200 Screening program for scoliosis—Examination of children—Personnel making examinations, training for.** The superintendent shall provide for and require the examination of children attending public schools at least three times between grades four and eleven in accordance with procedures and standards adopted by rule of the state board of health in cooperation with the superintendent of public instruction and the department of health. The examination shall be made by a school physician, school nurse, qualified licensed health practitioner, or physical education instructor or by other school personnel. Proper training of the personnel in the screening process for scoliosis shall be provided by the superintendent. [1991 c 86 § 3; 1990 c 33 § 203; 1985 c 216 § 3; 1979 c 47 § 3. Formerly RCW 28A.31.134.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.210 Screening program for scoliosis—Records—Parents or guardians notification, contents.** Every person performing the screening under RCW 28A.210.200 shall promptly prepare a record of the screening of each child found to have or suspected of having scoliosis and shall send copies of the records to the parents or guardians of the children. The notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the services generally available from a qualified licensed health practitioner for the treatment after diagnosis. [1990 c 33 § 204; 1985 c 216 § 4; 1979 c 47 § 4. Formerly RCW 28A.31.136.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.220 Screening program for scoliosis—Distribution of rules, records and forms.** The superintendent shall print and distribute to appropriate school officials the rules adopted by the state board of health in cooperation with the superintendent of public instruction under RCW 28A.210.200 and the recommended records and forms to be used in making and reporting the screenings. [1990 c 33 § 205; 1979 c 47 § 5. Formerly RCW 28A.31.138.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.230 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.210.240 Screening program for scoliosis—Pupils exempt, when.** Any pupil shall be exempt from the examination upon written request of his or her parent or guardian if the parent or guardian certifies that:

(1) The screening conflicts with the philosophical or religious beliefs; or

(2) The student is presently under the care of a health care provider for spinal curvature or a related medical condition. [1985 c 216 § 5; 1979 c 47 § 6. Formerly RCW 28A.31.140.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.250 Screening program for scoliosis—Sanctions against school officials failing to comply.** The superintendent may establish appropriate sanctions to be applied to any school officials of the state failing to comply with RCW 28A.210.200 through 28A.210.240 which sanctions may include withholding of any portion of state aid to the district until such time as compliance is assured. [1990 c 33 § 207; 1979 c 47 § 7. Formerly RCW 28A.31.142.]

**Severability—1979 c 47:** See note following RCW 28A.210.180.

**28A.210.260 Public and private schools—Administration of oral medication by—Conditions.** Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications to students, the acquisition of parent requests and instructions, and the acquisition of dentist and physician requests and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41

RCW, and the means of maintaining a record of the administration of such medication;

(2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed physician or dentist for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such physician or dentist regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive work days;

(5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a physician or dentist or the written instructions provided pursuant to subsection (4) of this section;

(6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

(7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 or 18.88 RCW to train and supervise the designated school district personnel in proper medication procedures. [1982 c 195 § 1. Formerly RCW 28A.31.150.]

**Severability—1982 c 195:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 195 § 4.]

**28A.210.270 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure.** (1) In the event a school employee administers oral medication to a student pursuant to RCW 28A.210.260 in substantial compliance with the prescription of the student's physician or dentist or the written instructions provided pursuant to RCW 28A.210.260(4), and the other conditions set forth in RCW 28A.210.260 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication to any student pursuant to RCW 28A.210.260 may be discontinued by a public school district or private school and the

school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: **PROVIDED**, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student. [1990 c 33 § 208; 1982 c 195 § 2. Formerly RCW 28A.31.155.]

**Severability—1982 c 195:** See note following RCW 28A.210.260.

**28A.210.280 Catheterization of public and private school students.** (1) Public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students, or assisted self-catheterization of students pursuant to RCW 18.88.295: **PROVIDED**, That the catheterization is provided for in substantial compliance with:

(a) Rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules; and

(b) Written policies of the school district or private school which shall be adopted in order to implement this section and shall be developed in accordance with such requirements of chapters 41.56 and 41.59 RCW as may be applicable.

(2) This section does not require school districts to provide intermittent bladder catheterization of students. [1988 c 48 § 2. Formerly RCW 28A.31.160.]

**28A.210.290 Catheterization of public and private school students—Immunity from liability.** (1) In the event a school employee provides for the catheterization of a student pursuant to RCW 18.88.295 and 28A.210.280 in substantial compliance with (a) rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to RCW 18.88.295 and 28A.210.280 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of the discontinuance: **PROVIDED**, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal

control over the student: PROVIDED FURTHER, That the public school district otherwise provides for the catheterization of the student to the extent required by federal or state law. [1990 c 33 § 209; 1988 c 48 § 3. Formerly RCW 28A.31.165.]

**28A.210.300 School physician or school nurse may be employed.** The board of directors of any school district of the second class may employ a regularly licensed physician or a licensed public health nurse for the purpose of protecting the health of the children in said district. [1975 c 43 § 20; 1969 ex.s. c 223 § 28A.60.320. Prior: 1937 c 60 § 1; RRS § 4776-4. Formerly RCW 28A.60.320, 28.31.080.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.210.310 Prohibition on use of tobacco products on school property.** To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall adopt a written policy mandating a prohibition on the use of all tobacco products on public school property. A total ban on the use of all tobacco products shall be enforced by September 1, 1991. The policy may allow for exemptions from this prohibition with regard to alternative educational programs. [1989 c 233 § 6. Formerly RCW 28A.31.170.]

## Chapter 28A.215

### EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

#### Sections

#### NURSERY SCHOOLS, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

- 28A.215.010 Authority of school boards.
- 28A.215.020 Allocations of state or federal funds—Regulations by state board.
- 28A.215.030 Allocations pending receipt of federal funds.
- 28A.215.040 Establishment and maintenance discretionary.
- 28A.215.050 Additional authority—Contracts with private and public entities—Charges—Transportation services.

#### EARLY CHILDHOOD ASSISTANCE PROGRAM

- 28A.215.100 Intent.
- 28A.215.110 Definitions.
- 28A.215.120 Department of community development to administer program—Admission and funding.
- 28A.215.130 Approved preschool programs—Entities eligible to conduct—Use of funds—Requirements for applicants.
- 28A.215.140 Advisory committee—Composition.
- 28A.215.150 Rules.
- 28A.215.160 Review of applications—Award of funds.
- 28A.215.170 Governor's report.
- 28A.215.180 State support—Priorities—Program funding levels.
- 28A.215.190 Expenses of advisory committee—Reimbursement.
- 28A.215.200 Authority to solicit gifts, grants, and support.

#### VOLUNTARY ACCREDITATION OF PRESCHOOLS

- 28A.215.300 Voluntary accreditation for preschools—Intent.
- 28A.215.310 Definition of preschool.
- 28A.215.320 Standards for accreditation—Option to establish advisory committee.

- 28A.215.330 Voluntary accreditation of preschools—Prohibited practices by public or nonpublic entities.
- 28A.215.900 Short title—1985 c 418.
- 28A.215.904 Contingency—Effective date—1985 c 418.
- 28A.215.906 Severability—1985 c 418.
- 28A.215.908 Severability—1988 c 174.

### NURSERY SCHOOLS, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

**28A.215.010 Authority of school boards.** The board of directors of any school district shall have the power to establish and maintain nursery schools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing nursery schools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such nursery schools as established by the United States Department of Health, Education and Welfare, or its successor agency, and the state board of education. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district. [1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28A.34.010, 28.34.010.]

**28A.215.020 Allocations of state or federal funds—Regulations by state board.** Expenditures under federal funds and/or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW 28A.215.010. [1990 c 33 § 210; 1969 ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28A.34.020, 28.34.020, 28.34.030.]

**28A.215.030 Allocations pending receipt of federal funds.** In the event the legislature appropriates any moneys to carry out the purposes of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 pending the receipt of reimbursement from funds made

available by acts of congress. [1990 c 33 § 211; 1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28A.34.040, 28.34.040.]

**28A.215.040 Establishment and maintenance discretionary.** Every board of directors shall have power to establish, equip and maintain nursery schools and/or provide before-and-after-school care for children of working parents, in cooperation with the federal government or any of its agencies, when in their judgment the best interests of their district will be subserved thereby. [1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28A.34.050, 28.34.050.]

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

**28A.215.050 Additional authority—Contracts with private and public entities—Charges—Transportation services.** As a supplement to the authority otherwise granted by RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 respecting the care or instruction, or both, of children in general, the board of directors of any school district may only utilize funds outside the state basic education appropriation and the state school transportation appropriation to:

(1) Contract with public and private entities to conduct all or any portion of the management and operation of a child care program at a school district site or elsewhere;

(2) Establish charges based upon costs incurred under this section and provide for the reduction or waiver of charges in individual cases based upon the financial ability of the parents or legal guardians of enrolled children to pay the charges, or upon their provision of other valuable consideration to the school district; and

(3) Transport children enrolled in a child care program to the program and to related sites using district-owned school buses and other motor vehicles, or by contracting for such transportation and related services: **PROVIDED**, That no child three years of age or younger shall be transported under the provisions of this section unless accompanied by a parent or guardian. [1990 c 33 § 212; 1987 c 487 § 1. Formerly RCW 28A.34.150.]

## EARLY CHILDHOOD ASSISTANCE PROGRAM

**28A.215.100 Intent.** It is the intent of the legislature to establish a preschool state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution. [1985 c 418 § 1. Formerly RCW 28A.34A.010.]

**28A.215.110 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908.

(1) "Advisory committee" means the advisory committee under RCW 28A.215.140.

(2) "At risk" means a child not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal head start program.

(3) "Department" means the department of community development.

(4) "Eligible child" means an at-risk child as defined in this section who is not a participant in a federal or state program providing like educational services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the preschool program.

(5) "Approved preschool programs" means those state-supported education and special assistance programs which are recognized by the department of community development as meeting the minimum program rules adopted by the department to qualify under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 and are designated as eligible for funding by the department under RCW 28A.215.160 and 28A.215.180. [1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 28A.34A.020.]

**Findings—1988 c 174:** "The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk children and preschool programs.

The legislature further finds that existing federal head start programs and state-supported early childhood education programs provide services for less than one-third of the eligible children in Washington.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education." [1988 c 174 § 1.]

**28A.215.120 Department of community development to administer program—Admission and funding.** The department of community development shall administer a state-supported preschool education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved preschool programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds. [1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 28A.34A.030.]

**Findings—1988 c 174:** See note following RCW 28A.215.110.

**28A.215.130 Approved preschool programs—Entities eligible to conduct—Use of funds—Requirements for applicants.** Approved preschool programs shall receive state-funded support through the department. School districts, and existing head start grantees in cooperation with school districts, are eligible to participate as providers of the state preschool program. School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the state program. Funds appropriated for the state program shall be used to establish new or expanded preschool programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state supported preschool programs. Persons applying to conduct the preschool program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements. [1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 28A.34A.040.]

**Findings—1988 c 174:** See note following RCW 28A.215.110.

**28A.215.140 Advisory committee—Composition.** The department shall establish an advisory committee composed of interested parents and representatives from the state board of education, the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program. [1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 28A.34A.050.]

**Findings—1988 c 174:** See note following RCW 28A.215.110.

**28A.215.150 Rules.** The department shall adopt rules under chapter 34.05 RCW for the administration of the preschool program. Federal head start program criteria, including set aside provisions for the children of seasonal and migrant farmworkers and native American populations living either on or off reservation, to the extent practicable, shall be considered as guidelines for the state preschool early childhood assistance program.

The department in developing rules for the preschool program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other preschool programs, the preparation necessary for instructors, qualifications of instructors,

adequate space and equipment, and special transportation needs. The rules shall specifically require the preschool programs to provide for parental involvement at a level not less than that provided under the federal head start program criteria. [1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 28A.34A.060.]

**Findings—1988 c 174:** See note following RCW 28A.215.110.

**Intent—1987 c 518:** "The long-term social, community welfare, and economic interests of the state will be served by an investment in our children. Conclusive studies and experiences show that providing children with certain developmental experiences and effective parental guidance can greatly improve their performance in school as well as increase the likelihood of their success as adults. National studies have also confirmed that special attention to, and educational assistance for, children and their school environment is the most effective way in which to meet the state's social and economic goals.

The legislature intends to enhance the readiness to learn of certain children and students by: Providing for an expansion of the state early childhood education and assistance program for children from low-income families and establishing an adult literacy program for certain parents; assisting school districts to establish elementary counseling programs; instituting a program to address learning problems due to drug and alcohol use and abuse; and establishing a program directed at students who leave school before graduation.

The legislature intends further to establish programs that will allow for parental, business, and community involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1987 c 518 § 1.]

**Severability—1987 c 518:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 518 § 411.]

**28A.215.160 Review of applications—Award of funds.** The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds on a competitive basis as determined by department rules. [1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 28A.34A.070.]

**Findings—1988 c 174:** See note following RCW 28A.215.110.

**28A.215.170 Governor's report.** The governor shall report to the legislature before each regular session of the legislature convening in an odd-numbered year, on the merits of continuing and expanding the preschool program or instituting other means of providing early childhood development assistance. The office of the superintendent of public instruction shall assist the governor in the preparation of the biennial report and shall be consulted on all issues addressed in said report.

If the governor recommends the continuation of a state-funded preschool program, then the governor's report shall include specific recommendations on at least the following issues:

- (1) The desired relationships of a state-funded preschool education and assistance program with the common school system;
- (2) The types of children and their needs that the program should serve;
- (3) The appropriate level of state support for implementing a comprehensive preschool education and assistance program for all eligible children, including related programs to prepare instructors and provide facilities, equipment, and transportation;

(4) The state administrative structure necessary to implement the program; and

(5) The establishment of a system to examine and monitor the effectiveness of preschool educational and assistance services for disadvantaged children to measure, among other elements, if possible, how the children completing this program compare to the average level of performance of all state students in their grade level, and to those at-risk students who do not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of at-risk students who do not have access to this program needing such services. [1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.34A.080.]

**Findings**—1988 c 174: See note following RCW 28A.215.110.

**28A.215.180 State support—Priorities—Program funding levels.** For the purposes of RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under RCW 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported preschool programs in this state by up to five thousand additional children. Priority shall be given to groups in those geographical areas which include a high percentage of families qualifying under the federal "at risk" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules. [1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9. Formerly RCW 28A.34A.090.]

**Intent—Severability**—1987 c 518: See notes following RCW 28A.215.150.

**28A.215.190 Expenses of advisory committee—Reimbursement.** The department from funds appropriated for the administration of the program under \*this act shall reimburse the expenses of the advisory committee. [1985 c 418 § 10. Formerly RCW 28A.34A.100.]

\*Reviser's note: For codification of "this act" [1985 c 418], see Codification Tables, Volume 0.

**28A.215.200 Authority to solicit gifts, grants, and support.** The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the preschool state education and assistance program established by RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the preschool state education and assistance program and shall assist local programs in developing partnerships with the community for children-at-risk. [1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 28A.34A.110.]

**Findings**—1988 c 174: See note following RCW 28A.215.110.

## VOLUNTARY ACCREDITATION OF PRESCHOOLS

**28A.215.300 Voluntary accreditation for preschools—Intent.** The legislature intends to establish a process for public or nonpublic preschool programs to seek voluntarily accreditation, by the state board of education, of their child development and educational offerings. The purpose of the accreditation is to give parents and other consumers of preschool programs some standard to use to assess the quality of preschool programs. [1986 c 150 § 1. Formerly RCW 28A.34.100.]

**28A.215.310 Definition of preschool.** Unless the context clearly indicates otherwise, the definition used in this section shall apply throughout RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330.

"Preschool" means educational programs that emphasize readiness skills and that enroll children of preschool age on a regular basis for four hours per day or less. [1990 c 33 § 216; 1986 c 150 § 2. Formerly RCW 28A.34.110.]

**28A.215.320 Standards for accreditation—Option to establish advisory committee.** The state board of education shall establish standards and procedures for the accreditation of all public and nonpublic preschools. Such schools are hereby encouraged to apply for such accreditation. In developing standards, the state board of education shall use nationally developed standards if, in the judgment of the state board of education, such national standards adequately protect the children and parents who are the consumers of preschool education. If the state board of education establishes an advisory committee to assist in the development or selection of standards, at least one member of the advisory committee shall represent private preschools. [1986 c 150 § 3. Formerly RCW 28A.34.120.]

**28A.215.330 Voluntary accreditation of preschools—Prohibited practices by public or nonpublic entities.** No public or nonpublic entity may advertise that it has an accredited preschool unless its educational program has been accredited under RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330. Any person with a pecuniary interest in the operation of a preschool who intentionally and falsely advertises that such preschool is accredited by the state board of education shall be guilty of a misdemeanor, the fine for which shall be no more than one hundred dollars. Each day that the violation continues shall be considered a separate violation. [1990 c 33 § 217; 1986 c 150 § 4. Formerly RCW 28A.34.130.]

**28A.215.900 Short title**—1985 c 418. This act shall be known as the early childhood assistance act of 1985. [1985 c 418 § 13. Formerly RCW 28A.34A.904.]

**28A.215.904 Contingency—Effective date—1985 c 418.** If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect. [1985 c 418 § 12. Formerly RCW 28A.34A.900.]

**Reviser's note:** (1) 1986 c 312 § 211 provides specific funding for the purposes of this act.

(2) 1986 c 312 took effect April 4, 1986.

**28A.215.906 Severability—1985 c 418.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 418 § 14. Formerly RCW 28A.34A.906.]

**28A.215.908 Severability—1988 c 174.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 174 § 11. Formerly RCW 28A.34A.908.]

## Chapter 28A.220 TRAFFIC SAFETY

### Sections

28A.220.010	Legislative declaration.
28A.220.020	Definitions.
28A.220.030	Administration of program—Powers and duties of school officials.
28A.220.040	Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit.
28A.220.050	Information on proper use of left-hand lane.
28A.220.060	Information on effects of alcohol and drug use.
28A.220.900	Purpose.

**28A.220.010 Legislative declaration.** It is the purpose of \*this 1977 amendatory act to provide the students of the state with an improved quality traffic safety education program and to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, an understanding of the causes and consequences of traffic accidents, and to provide training in the skills necessary for the safe operation of motor vehicles; to provide financial assistance to the various school districts while permitting them to achieve economies through options in the choice of course content and methods of instructions by adopting in whole or with modifications, a program prepared by the office of the superintendent of public instruction, and keeping to a minimum the amount of estimating, bookkeeping and reporting required of said school districts for financial reimbursement for such traffic safety education programs. [1977 c 76 § 1. Formerly RCW 28A.08.005, 46.81.005.]

**\*Reviser's note:** This 1977 amendatory act consists of RCW 46.81-.005 and the 1977 amendments to RCW 46.81.010, 46.81.020, and

46.81.070. Chapter 46.81 RCW has been recodified as chapter 28A.08 RCW pursuant to RCW 1.08.015 and subsequently recodified as chapter 28A.220 RCW pursuant to 1990 c 33 § 4.

**Severability—1977 c 76:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 c 76 § 5.]

**28A.220.020 Definitions.** The following words and phrases whenever used in chapter 28A.220 RCW shall have the following meaning:

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

(2) "Traffic safety education course" shall mean an accredited course of instruction in traffic safety education which shall consist of two phases, classroom instruction, and laboratory experience. "Laboratory experience" shall include on-street, driving range, or simulator experience or some combination thereof. Each phase shall meet basic course requirements which shall be established by the superintendent of public instruction and each part of said course shall be taught by a qualified teacher of traffic safety education. Any portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school districts.

(3) "Qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter 28A.410 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent: PROVIDED, That the laboratory experience phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter 28A.410 RCW. Professional instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to reasonable qualification requirements jointly adopted by the superintendent of public instruction and the director of licensing.

(4) "Realistic level of effort" means the classroom and laboratory student learning experiences considered acceptable to the superintendent of public instruction that must be satisfactorily accomplished by the student in order to successfully complete the traffic safety education course. [1990 c 33 § 218; 1979 c 158 § 195; 1977 c 76 § 2; 1969 ex.s. c 218 § 1; 1963 c 39 § 2. Formerly RCW 28A.08.010, 46.81.010.]

**Severability—1977 c 76:** See note following RCW 28A.220.010.

**28A.220.030 Administration of program—Powers and duties of school officials.** (1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define a "realistic level of effort" required to provide an effective traffic safety education course, establish a level

of driving competency required of each student to successfully complete the course, and ensure that an effective state-wide program is implemented and sustained, administer, supervise, and develop the traffic safety education program and shall assist local school districts in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules and regulations governing the operation and scope of the traffic safety education program; and each school district shall submit a report to the superintendent on the condition of its traffic safety education program: PROVIDED, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education course. If a school district elects to offer a traffic safety education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one class in traffic safety education shall be given at times other than regular school hours if there is sufficient demand therefor.

(3) The board of directors of a school district, or combination of school districts, may contract with any drivers' school licensed under the provisions of chapter 46.82 RCW to teach the laboratory phase of the traffic safety education course. Instructors provided by any such contracting drivers' school must be properly qualified teachers of traffic safety education under the joint qualification requirements adopted by the superintendent of public instruction and the director of licensing. [1979 c 158 § 196; 1977 c 76 § 3; 1969 ex.s. c 218 § 2; 1963 c 39 § 3. Formerly RCW 28A.08.020, 46.81.020.]

**Severability**—1977 c 76: See note following RCW 28A.220.010.

**28A.220.040 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit.** (1) Each school district shall be reimbursed from funds appropriated for traffic safety education: PROVIDED, That the state superintendent shall determine the per pupil reimbursement amount for the traffic safety education course to be funded by the state. Each school district offering an approved standard traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be appropriated.

(2) The board of directors of any school district or combination of school districts may establish a traffic safety education fee, which fee when imposed shall be required to be paid by any duly enrolled student in any such school district prior to or while enrolled in a traffic safety education course. Traffic safety education fees collected by a school district shall be deposited with the county treasurer to the credit of such school district, to be used to pay costs of the traffic safety education course. [1984 c 258 § 331; 1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8. Formerly RCW 28A.08.070, 46.81.070.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title**—1984 c 258: See notes following RCW 3.30.010.

**Intent**—1984 c 258: See note following RCW 3.46.120.

**Severability**—1977 c 76: See note following RCW 28A.220.010.

*Traffic safety commission: Chapter 43.59 RCW.*

**28A.220.050 Information on proper use of left-hand lane.** The superintendent of public instruction shall include information on the proper use of the left-hand lane on multilane highways in instructional material used in traffic safety education courses. [1986 c 93 § 4. Formerly RCW 28A.08.080.]

*Keep right except when passing, etc: RCW 46.61.100.*

**28A.220.060 Information on effects of alcohol and drug use.** The superintendent of public instruction shall include information on the effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington, and current penalties for driving under the influence of drugs or alcohol in instructional material used in traffic safety education courses. [1991 c 217 § 2.]

**28A.220.900 Purpose.** It is the purpose of this act to provide the financial assistance necessary to enable each high school district to offer a course in traffic safety education and by that means to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, and an understanding of the causes and consequences of traffic accidents, with an emphasis on the consequences, both physical and legal, of the use of drugs or alcohol in relation to operating a motor vehicle. The course in traffic safety education shall further provide to the youthful drivers of this state training in the skills necessary for the safe operation of motor vehicles. [1991 c 217 § 1; 1969 ex.s. c 218 § 7; 1963 c 39 § 1. Formerly RCW 28A.08.900, 46.81.900.]

## Chapter 28A.225

### COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

#### Sections

- 28A.225.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school—Child responsible for attending school—Exceptions—Excused temporary absences.
- 28A.225.020 School's duties upon juvenile's failure to attend school—Generally.
- 28A.225.030 Petition to juvenile court for violations by a parent or child—Applicability of chapter.
- 28A.225.040 School district superintendent to provide teacher with census—Report of truants, incorrigibles.
- 28A.225.050 Attendance enforcement officers—Authority—Record and report.
- 28A.225.060 Acquiring custody and disposition of truants.
- 28A.225.070 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.
- 28A.225.080 Employment permits.
- 28A.225.090 Penalties in general—Defense—Suspension of fine—Complaints to court.
- 28A.225.100 Penalty for nonperformance of duty—Disposition of fines.
- 28A.225.110 Fines applied to support of schools.

- 28A.225.120 Prosecuting attorney or attorney for district to act for complainant.
- 28A.225.130 Courts have concurrent jurisdiction.
- 28A.225.140 Enforcing officers not personally liable for costs.
- 28A.225.150 Reports by school district attendance officers—Compilation of information and reports.
- 28A.225.160 Qualification for admission to district's schools—Fees for preadmission screening.
- 28A.225.170 Children on United States reservations, admission to schools—United States authorities to cooperate.
- 28A.225.180 Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district.
- 28A.225.190 Reimbursing district for educating children of employees of municipal light plant.
- 28A.225.200 Education of pupils in another district—Limitation as to state apportionment—Exemption.
- 28A.225.210 Admission of out-of-district pupils tuition free, when.
- 28A.225.215 Enrollment of children without legal residences.
- 28A.225.220 Adults, children from other districts, agreements for attending school—Tuition—Transfer fees.
- 28A.225.225 Applications to attend nonresident district—Acceptance and rejection—Notification.
- 28A.225.230 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure.
- 28A.225.240 Apportionment credit.
- 28A.225.250 Voluntary, tuition free attendance programs among school districts, scope—Rules and regulations.
- 28A.225.260 Reciprocity exchanges with other states.
- 28A.225.270 Intradistrict enrollment options policies.
- 28A.225.280 Transfer students' eligibility for extracurricular activities.
- 28A.225.290 Enrollment options information booklet.
- 28A.225.300 Enrollment options information to parents.
- 28A.225.310 Attendance in school district of choice—Impact on existing cooperative arrangements.
- 28A.225.320 Information on student transfers—Reports.

**28A.225.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school—Child responsible for attending school—Exceptions—Excused temporary absences.** (1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section; or

(c) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: **PROVIDED**, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: **PROVIDED FURTHER**, That students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260 and shall

not affect school district compliance with the provisions of RCW 28A.150.220;

(d) The child is fifteen years of age or older and:

(i) The school district superintendent determines that such child has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state;

(ii) The child is regularly and lawfully engaged in a useful or remunerative occupation;

(iii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iv) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting.

Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed. [1990 c 33 § 219; 1986 c 132 § 1; 1985 c 441 § 1; 1980 c 59 § 1; 1979 ex.s. c 201 § 4; 1973 c 51 § 1; 1972 ex.s. c 10 § 2. Prior: 1971 ex.s. c 215 § 2; 1971 ex.s. c 51 § 1; 1969 ex.s. c 109 § 2; 1969 ex.s. c 223 § 28A.27.010; prior: 1909 p 364 § 1; RRS § 5072; prior: 1907 c 240 § 7; 1907 c 231 § 1; 1905 c 162 § 1; 1903 c 48 § 1; 1901 c 177 § 11; 1899 c 140 § 1; 1897 c 118 § 71. Formerly RCW 28A.27.010, 28.27.010.]

**Severability—1985 c 441:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 441 § 6.]

**Severability—1973 c 51:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 51 § 5.]

*Private schools:* RCW 28A.305.130(6), 28A.195.010 through 28A.195.050.

*Work permits for minors required:* RCW 49.12.123.

**28A.225.020 School's duties upon juvenile's failure to attend school—Generally.** If a juvenile required to attend school under the laws of the state of Washington fails to attend school without valid justification recurrently or for an extended period of time, the juvenile's school, where appropriate, shall:

(1) Inform the juvenile's custodial parent, parents or guardian by a notice in writing in English and, if different, in the primary language of the custodial parent, parents or guardian and by other means reasonably necessary to achieve notice of the fact that the juvenile has failed to attend school without valid justification recurrently or for an extended period of time;

(2) Schedule a conference or conferences with the custodial parent, parents or guardian and juvenile at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the juvenile's absences; and

(3) Take steps to eliminate or reduce the juvenile's absences. These steps shall include, where appropriate, adjusting the juvenile's school program or school or course assignment, providing more individualized or remedial instruction, preparing the juvenile for employment with specific vocational courses or work experience, or both, and assisting the parent or student to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. [1986 c 132 § 2; 1979 ex.s. c 201 § 1. Formerly RCW 28A.27.020.]

**28A.225.030 Petition to juvenile court for violations by a parent or child—Applicability of chapter.** If action taken by a school pursuant to RCW 28A.225.020 is not successful in substantially reducing a student's absences from school, any of the following actions may be taken: (1) The attendance officer of the school district through its attorney may petition the juvenile court to assume jurisdiction under RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for

the purpose of alleging a violation of RCW 28A.225.010 by the parent; or (2) a petition alleging a violation of RCW 28A.225.010 by a child may be filed with the juvenile court by the parent of such child or by the attendance officer of the school district through its attorney at the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except where otherwise stated, shall apply. [1990 c 33 § 220; 1986 c 132 § 3; 1979 ex.s. c 201 § 2. Formerly RCW 28A.27.022.]

**28A.225.040 School district superintendent to provide teacher with census—Report of truants, incorrigibles.** It shall be the duty of the school district superintendent, at the beginning of each school year, to provide each teacher with a copy of that portion of the last census of school children taken in his or her school district which would be pertinent to the grade or grades such teacher is instructing and it shall be the duty of every teacher to report to the proper attendance officer, all cases of truancy or incorrigibility in his or her school, immediately after the offense or offenses shall have been committed: PROVIDED, That if there is a principal the report by the teacher shall be made to the principal and by the principal transmitted to the attendance officer: PROVIDED FURTHER, That if there is a city superintendent, the principal shall transmit such report to said city superintendent, who shall transmit such report to the proper attendance officer of his or her district. [1990 c 33 § 221; 1969 ex.s. c 223 § 28A.27.030. Prior: 1909 c 97 p 367 § 6; RRS § 5077; prior: 1907 c 231 § 6; 1905 c 162 § 6; 1903 c 48 §§ 2, 3, 4. Formerly RCW 28A.27.030, 28.27.030.]

**28A.225.050 Attendance enforcement officers—Authority—Record and report.** To aid in the enforcement of RCW 28A.225.010 through 28A.225.140, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. In all other districts the educational service district superintendent shall appoint one or more attendance officers or may act as such himself or herself.

The compensation of attendance officer in city districts shall be fixed and paid by the board appointing him or her. The compensation of attendance officers when appointed by the educational service district superintendents shall be paid by the respective districts. An educational service district superintendent shall receive no extra compensation if acting as attendance officer.

Any sheriff, constable, city marshal or regularly appointed police officer may be appointed attendance officer.

The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by RCW 28A.225.010 through 28A.225.140, and shall have authority to enter all places in which children may be employed, for the purpose of making such investigations as may be necessary for the

enforcement of RCW 28A.225.010 through 28A.225.140. The attendance officer is authorized to take into custody the person of any child eight years of age and not over fourteen years of age, who may be a truant from school, and to conduct such child to his or her parents, for investigation and explanation, or to the school which he or she should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of RCW 28A.225.010 through 28A.225.140, and shall otherwise discharge the duties prescribed in RCW 28A.225.010 through 28A.225.140, and shall perform such other services as the educational service district superintendent or the superintendent of any school or its board of directors may deem necessary. However, the attendance officer shall not institute proceedings against the child under RCW 28A.225.030 except as set forth under RCW 28A.225.030.

The attendance officer shall keep a record of his or her transactions for the inspection and information of any school district board of directors, the educational service district superintendent or the city superintendent, and shall make a detailed report to the city superintendent or the educational service district superintendent as often as the same may be required. [1990 c 33 § 222; 1986 c 132 § 4; 1975 1st ex.s. c 275 § 56; 1971 c 48 § 9; 1969 ex.s. c 176 § 105; 1969 ex.s. c 223 § 28A.27.040. Prior: 1909 c 97 p 365 § 4; RRS § 5075; prior: 1907 c 231 § 4; 1905 c 162 § 4. Formerly RCW 28A.27.040, 28.27.040, 28.27.050 and 28.27.060.]

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.225.060 Acquiring custody and disposition of truants.** Any attendance officer, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, shall take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school, such child then being a truant from instruction at the school which he or she is lawfully required to attend, and shall forthwith deliver a child so detained either (1) to the custody of a person in parental relation to the child or (2) to the school from which the child is then a truant. [1990 c 33 § 223; 1979 ex.s. c 201 § 5; 1977 ex.s. c 291 § 52; 1969 ex.s. c 223 § 28A.27.070. Prior: 1909 c 97 p 366 § 5; RRS § 5076; prior: 1907 c 231 § 5; 1905 c 162 § 5. Formerly RCW 28A.27.070, 28.27.070.]

**Effective dates**—**Severability**—1977 ex.s. c 291: See notes following RCW 13.04.005.

**28A.225.070 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.** The educational service district superintendent, on or before the fifteenth day of August of each year, by printed circular or otherwise, shall call the attention of all school district officials to the provisions of RCW 28A.225.010 through

28A.225.140, and to the penalties prescribed for the violation of its provisions, and he or she shall require those officials of the school district which he or she shall designate to make a report annually hereafter, verified by affidavit, stating whether or not the provisions of RCW 28A.225.010 through 28A.225.140 have been faithfully complied with in his or her district. Such reports shall be made upon forms to be furnished by the superintendent of public instruction and shall be transmitted to the educational service district superintendent at such time as the educational service district superintendent shall determine, after notice thereof. Any school district official who shall knowingly or willfully make a false report relating to the enforcement of the provisions of RCW 28A.225.010 through 28A.225.140 or fail to report as herein provided shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined not less than twenty-five dollars nor more than one hundred dollars; and any school district official who shall refuse or neglect to make the report required in this section, shall be personally liable to his or her district for any loss which it may sustain because of such neglect or refusal to report. [1990 c 33 § 224; 1975 1st ex.s. c 275 § 57; 1969 ex.s. c 176 § 106; 1969 ex.s. c 223 § 28A.27.080. Prior: 1909 c 97 p 367 § 9; RRS § 5080; prior: 1907 c 231 § 9. Formerly RCW 28A.27.080, 28.27.080, and 28.87.040.]

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.225.080 Employment permits.** Except as otherwise provided in this code, no child under the age of fifteen years shall be employed for any purpose by any person, company or corporation, in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in RCW 28A.225.010, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, company or corporation shall keep such certificate on file so long as such child is employed by him or her. The form of said certificate shall be furnished by the superintendent of public instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed prima facie evidence of a violation of this section. [1990 c 33 § 225; 1969 ex.s. c 223 § 28A.27.090. Prior: 1909 c 97 p 365 § 2; RRS § 5073; prior: 1907 c 231 § 2; 1905 c 162 § 2; 1903 c 48 § 2. Formerly RCW 28A.27.090, 28.27.090.]

**28A.225.090 Penalties in general—Defense—Suspension of fine—Complaints to court.** Any person violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW 28A.225.010 shall be required to attend

school and shall not be fined. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW 28A.225.020. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the superior or district court. [1990 c 33 § 226; 1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100. Prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28A.27.100, 28.27.100.]

**Intent**—1987 c 202: See note following RCW 2.04.190.

**28A.225.100 Penalty for nonperformance of duty**—Disposition of fines. Any school district superintendent, teacher or attendance officer who shall fail or refuse to perform the duties prescribed by RCW 28A.225.010 through 28A.225.140 shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: PROVIDED, That in case of a school district employee, such fine shall be paid to the appropriate county treasurer and by the county treasurer placed to the credit of the school district in which said employee is employed, and in case of all other officers such fine shall be paid to the county treasurer of the county in which the educational service district headquarters is located and by the county treasurer placed to the credit of the general school fund of the educational service district: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1990 c 33 § 227; 1987 c 202 § 190; 1975 1st ex.s. c 275 § 58; 1970 ex.s. c 15 § 14. Prior: 1969 ex.s. c 199 § 53; 1969 ex.s. c 176 § 107; 1969 ex.s. c 223 § 28A.27.102; prior: 1909 p 368 § 10; RRS § 5081; 1907 c 231 § 10; 1905 c 162 § 10; 1903 c 48 § 7. Formerly RCW 28A.27.102, 28.27.102, 28.27.100, part.]

**Intent**—1987 c 202: See note following RCW 2.04.190.

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**Rights preserved**—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.225.110 Fines applied to support of schools.** Notwithstanding the provisions of RCW 10.82.070, all

fines except as otherwise provided in RCW 28A.225.010 through 28A.225.140 shall inure and be applied to the support of the public schools in the school district where such offense was committed: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1990 c 33 § 228; 1987 c 202 § 191; 1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28A.27.104, 28.27.104, 28.27.100, part.]

**Intent**—1987 c 202: See note following RCW 2.04.190.

**28A.225.120 Prosecuting attorney or attorney for district to act for complainant.** The county prosecuting attorney or the attorney for the school district shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by RCW 28A.225.010 through 28A.225.140 except for those petitions filed against a child by the parent without the assistance of the school district. [1990 c 33 § 229; 1986 c 132 § 6; 1979 ex.s. c 201 § 7; 1969 ex.s. c 223 § 28A.27.110. Prior: 1909 c 97 p 367 § 8; RRS § 5079; prior: 1901 c 177 § 19; 1899 c 142 § 25; 1897 c 118 § 177; 1890 p 382 § 83. Formerly RCW 28A.27.110, 28.27.110.]

**28A.225.130 Courts have concurrent jurisdiction.** In cases arising under RCW 28A.225.010 through 28A.225.140, all district courts, municipal courts or departments, and superior courts in the state of Washington shall have concurrent jurisdiction. [1990 c 33 § 230; 1987 c 202 § 192; 1969 ex.s. c 223 § 28A.27.120. Prior: 1909 c 97 p 367 § 7; RRS § 5078; prior: 1907 c 231 § 7; 1905 c 162 § 7. Formerly RCW 28A.27.120, 28.27.120.]

**Intent**—1987 c 202: See note following RCW 2.04.190.

**28A.225.140 Enforcing officers not personally liable for costs.** No officer performing any duty under any of the provisions of RCW 28A.225.010 through 28A.225.140, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by RCW 28A.225.010 through 28A.225.140. [1990 c 33 § 231; 1969 ex.s. c 223 § 28A.27.130. Prior: 1909 c 97 p 368 § 12; RRS § 5083; prior: 1907 c 231 § 13; 1905 c 162 § 12. Formerly RCW 28A.27.130, 28.27.130.]

**28A.225.150 Reports by school district attendance officers**—Compilation of information and reports. The school district attendance officer shall report biannually to the educational service district superintendent, in the instance of petitions filed alleging a violation by a child under RCW 28A.225.030:

(1) The number of petitions filed by a school district or by a parent;

(2) The frequency of each action taken under RCW 28A.225.020 prior to the filing of such petition;

(3) When deemed appropriate under RCW 28A.225.020, the frequency of delivery of supplemental services; and

(4) Disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW 28A.225.090.

The educational service district superintendent shall compile such information and report annually to the superintendent of public instruction. The superintendent of public instruction shall compile such information and report to the committees of the house of representatives and the senate by January 1, 1988. [1990 c 33 § 232; 1986 c 132 § 7. Formerly RCW 28A.27.140.]

**28A.225.160 Qualification for admission to district's schools—Fees for preadmission screening.** Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law, the state board of education is hereby authorized to adopt rules in accordance with chapter 34.05 RCW which establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the state board of education which authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees not to exceed seventy-five dollars per preadmission student to cover expenses incurred in the administration of such a screening process: **PROVIDED**, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees. [1986 c 166 § 1; 1979 ex.s. c 250 § 4; 1977 ex.s. c 359 § 14; 1969 ex.s. c 223 § 28A.58.190. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.58.190, 28.58.190 part, 28.01.060.]

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

*Basic Education Act of 1977, RCW 28A.225.160 as part of: RCW 28A.150.200.*

**28A.225.170 Children on United States reservations, admission to schools—United States authorities to cooperate.** Any child who is of school age and otherwise eligible residing within the boundaries of any military, naval, lighthouse, or other United States reservation, national park or national forest or residing upon rented or leased undeeded lands within any Indian reservation within the state of Washington, shall be admitted to the public school, or schools, of any contiguous district without payment of tuition: **PROVIDED**, That the United States authorities in charge of such reservation

or park shall cooperate fully with state, county, and school district authorities in the enforcement of the laws of this state relating to the compulsory attendance of children of school age, and all laws relating to and regulating school attendance. [1969 ex.s. c 223 § 28A.58.210. Prior: 1945 c 141 § 10; 1933 c 28 § 10; 1925 ex.s. c 93 § 1; Rem. Supp. 1945 § 4680-1. Formerly RCW 28A.58.210, 28.58.210, 28.27.140.]

**28A.225.180 Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district.** It shall be the duty of the school district superintendent of a school district contiguous to any United States military, naval or lighthouse reservation or national park in which the majority of children residing within such reservation or park attend, to take a census of the children residing within such reservation or park at the time of taking the census of the school children of the school district superintendent's district as otherwise provided by law and to report such census in the manner provided by law for reporting the school census of his or her district. [1990 c 33 § 233; 1969 ex.s. c 223 § 28A.58.215. Prior: 1925 ex.s. c 93 § 3; RRS § 4680-3. Formerly RCW 28A.58.215, 28.58.215.]

**28A.225.190 Reimbursing district for educating children of employees of municipal light plant.** Any city operating a public utility pursuant to the provisions of RCW 35.92.050, with a plant for the generation of electricity located within the limits of any school district outside of the corporate limits of such city which shall cause any loss of revenues and/or increase the financial burden of any such school district affected because of an increase in the number of pupils by reason of the operation of such generating facility, shall provide for recompensing such losses or alleviating such financial burden through agreement with such school district in accordance with the provisions of RCW 35.21.425 through 35.21.427. [1969 ex.s. c 223 § 28A.58.220. Prior: 1929 c 77 § 1; RRS § 4680-5. Formerly RCW 28A.58.220, 28.58.220.]

*City or town acquiring electrical utilities may pay taxing districts in amount of prior taxes paid: RCW 35.21.430.*

*City taking over utility plant may help pay outstanding bonded indebtedness of school district: RCW 35.21.440.*

**28A.225.200 Education of pupils in another district—Limitation as to state apportionment—Exemption.** (1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education: **PROVIDED**, That notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to RCW 28A.150.100, 28A.150.250

through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, 28A.160.220, 28A.300.170, and 28A.500.010 shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW 28A.340.030 which exceeds two years in duration. [1990 c 33 § 234; 1988 c 268 § 6; 1979 ex.s. c 140 § 1; 1975 1st ex.s. c 275 § 111; 1969 ex.s. c 176 § 141; 1969 ex.s. c 223 § 28A.58.225. Prior: 1965 ex.s. c 154 § 10. Formerly RCW 28A.58.225, 28.24.110.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

**Severability—1979 ex.s. c 140:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 140 § 4.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.225.210 Admission of out-of-district pupils tuition free, when.** Every school district shall admit on a tuition free basis all persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: PROVIDED, That nothing in this section shall be construed as affecting RCW 28A.225.220 or 28A.225.250. [1990 c 33 § 235; 1983 c 3 § 37; 1969 c 130 § 9; 1969 ex.s. c 223 § 28A.58.230. Prior: 1917 c 21 § 9; RRS § 4718. Formerly RCW 28A.58.230, 28.58.230.]

*Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise: RCW 28A.540.110.*

*Education of handicapped children: RCW 28A.155.050.*

**28A.225.215 Enrollment of children without legal residences.** (1) A school district shall not require proof of residency or any other information regarding an address for any child who is eligible by reason of age for the services of the school district if the child does not have a legal residence.

(2) A school district shall enroll a child without a legal residence under subsection (1) of this section at the request of the child or parent or guardian of the child. [1989 c 118 § 1. Formerly RCW 28A.58.235.]

**28A.225.220 Adults, children from other districts, agreements for attending school—Tuition—Transfer fees.** (1) Any board of directors may make agreements with adults choosing to attend school: PROVIDED, That unless such arrangements are approved by the state superintendent of public instruction, a reasonable tuition charge, fixed by the state superintendent of public instruction, shall be paid by such students as best may be accommodated therein.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) School districts may establish annual transfer fees for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Until rules are adopted under section 202, chapter 9, Laws of 1990 1st ex. sess. for the calculation of the transfer fee, the transfer fee shall be calculated by the same formula as the fees authorized under section 10, chapter 130, Laws of 1969. These fees, if applied, shall be applied uniformly for all such nonresident students except as provided in this section. The superintendent of public instruction, from available funds, shall pay any transfer fees for low-income students assessed by districts under this section. All transfer fees must be paid over to the county treasurer within thirty days of its collection for the credit of the district in which such students attend. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds. [1990 1st ex.s. c 9 § 201; 1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.240, 28.58.240.]

**Finding—1990 1st ex.s. c 9:** "The legislature finds that academic achievement of Washington students can and should be improved. The legislature further finds that student success depends, in large part, on increased parental involvement in their children's education.

In order to take another step toward improving education in Washington, it is the purpose of this act to enhance the ability of parents to exercise choice in where they prefer their children attend school; inform parents of their options under local policies and state law for the intradistrict and interdistrict enrollment of their children; and provide additional program opportunities for secondary students." [1990 1st ex.s. c 9 § 101.]

**Severability—1990 1st ex.s. c 9:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 9 § 502.]

*Education of handicapped children: RCW 28A.155.040, 28A.155.050.*

**28A.225.225 Applications to attend nonresident district—Acceptance and rejection—Notification.** (1)

All districts accepting applications from nonresident students for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3). [1990 1st ex.s. c 9 § 203.]

**Captions, headings not law**—1990 1st ex.s. c 9: "Part headings and section headings do not constitute any part of the law." [1990 1st ex.s. c 9 § 501.]

**Finding**—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.230 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure.** (1) The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district pursuant to RCW 28A.225.220 may be appealed to the superintendent of public instruction or his or her designee: **PROVIDED**, That the school district of proposed transfer is willing to accept the student.

(2) The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years if the requirements of RCW 28A.225.220 have been met. The decision of the superintendent of public instruction may be appealed to superior court pursuant to chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended.

(3) The decision of a school district to deny the request for accepting the transfer of a nonresident student under RCW 28A.225.225 may be appealed to the superintendent of public instruction or his or her designee. The superintendent or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the district to accept the nonresident student if the district did not comply with the standards and procedures adopted under RCW 28A.225.225. The decision of the superintendent of public instruction may be appealed to the superior court under chapter 34.05 RCW. [1990 1st ex.s. c 9 § 204; 1990 c 33 § 236; 1977 c 50 § 1; 1975 1st ex.s. c 66 § 1. Formerly RCW 28A.58.242.]

**Finding**—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**Severability**—1975 1st ex.s. c 66: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 66 § 4.]

*Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise: RCW 28A.540.110.*

**28A.225.240 Apportionment credit.** If a student under the age of twenty-one years is allowed to enroll in any common school outside the school district within which the student resides or a school district of which the student is considered to be a resident for attendance purposes by operation of law, the student's attendance shall be credited to the nonresident school district of enrollment for state apportionment and all other purposes. [1975 1st ex.s. c 66 § 2. Formerly RCW 28A.58.243.]

**Severability**—1975 1st ex.s. c 66: See note following RCW 28A.225.230.

**28A.225.250 Voluntary, tuition free attendance programs among school districts, scope—Rules and regulations.** Notwithstanding any other provision of law, the state superintendent of public instruction is directed and authorized to develop and adopt rules and regulations to implement such voluntary, tuition free attendance programs among school districts that he deems necessary for the expressed purpose of:

(1) Providing educational opportunities, including vocational skills programs, not otherwise provided;

(2) Avoiding unnecessary duplication of specialized or unusually expensive educational programs and facilities; or

(3) Improving racial balance within and among school districts: **PROVIDED**, That no voluntary, tuition free attendance program among school districts developed by the superintendent of public instruction shall be instituted unless such program receives the approval of the boards of directors of the districts. [1969 c 130 § 11. Formerly RCW 28A.58.243.]

*Education of handicapped children: RCW 28A.155.040, 28A.155.050.*

**28A.225.260 Reciprocity exchanges with other states.** If the laws of another state permit its school districts to extend similar privileges to pupils resident in this state, the board of directors of any school district contiguous to a school district in such other state may make agreements with the officers of the school district of that state for the attendance of any pupils resident therein upon the payment of tuition.

If a district accepts out-of-state pupils whose resident district is contiguous to a Washington school district, such district shall charge and collect the cost for educating such pupils and shall not include such out-of-state pupils in the computation of the district's share of state and/or county funds.

The board of directors of any school district which is contiguous to a school district in another state may make agreements for and pay tuition for any children of their district desiring to attend school in the contiguous district of the other state. The tuition to be paid for the attendance of resident pupils in an out-of-state school as provided in this section shall be no greater than the cost of educating such elementary or secondary pupils, as the case may be, in the out-of-state educating district. [1969 ex.s. c 223 § 28A.58.250. Prior: 1963 c 47 § 3; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.250, 28.58.250.]

*Education of handicapped children: RCW 28A.155.040.*

**28A.225.270 Intradistrict enrollment options policies.**

Each school district in the state shall adopt and implement a policy allowing intradistrict enrollment options no later than June 30, 1990. Each district shall establish its own policy establishing standards on how the intradistrict enrollment options will be implemented. [1990 1st ex.s. c 9 § 205.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.280 Transfer students' eligibility for extracurricular activities.** Eligibility of transfer students under RCW 28A.225.220 and 28A.225.225 for participation in extracurricular activities shall be subject to rules adopted by the Washington interscholastic activities association as authorized by the state board of education. [1990 1st ex.s. c 9 § 206.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.290 Enrollment options information booklet.**

(1) The superintendent of public instruction shall prepare and annually distribute an information booklet outlining parents' and guardians' enrollment options for their children.

(2) Before the 1991–92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, 28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start – community college or vocational–technical institute choice program under RCW 28A.600.300 through 28A.600.395; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090. [1990 1st ex.s. c 9 § 207.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.300 Enrollment options information to parents.** Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment

options and interdistrict acceptance policies shall be provided to nonresidents on request. [1990 1st ex.s. c 9 § 208.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.310 Attendance in school district of choice—Impact on existing cooperative arrangements.**

Any school district board of directors may make arrangements with the board of directors of other districts for children to attend the school district of choice. Nothing under RCW 28A.225.220 and 28A.225.225 is intended to adversely affect agreements between school districts in effect on April 11, 1990. [1990 1st ex.s. c 9 § 209.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.225.320 Information on student transfers—Reports.** (1) The superintendent of public instruction shall collect and maintain information on student transfers for each district and state-wide under RCW 28A.225.220 and 28A.225.225.

(2) The superintendent of public instruction shall report to the legislature and the governor annually beginning December 1, 1992, the following information:

(a) The number of and reason or reasons for requests for transfer out of a district;

(b) The number of and reason or reasons for the denial of a request to transfer out of a district;

(c) The number of and reason or reasons for requests for transfer into a district;

(d) The number of and reason or reasons for the denial of a request to transfer into a district; and

(e) The impact, if any, on a district's educational program as a result of the transfer of a student or students to another district. [1990 1st ex.s. c 9 § 210.]

**Captions, headings not law**—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

## Chapter 28A.230

### COMPULSORY COURSEWORK AND ACTIVITIES

#### Sections

28A.230.010 Course content requirements—Duties of school district boards of directors.

28A.230.020 Common school curriculum—Fundamentals in conduct.

28A.230.030 Students taught in English language—Exception.

28A.230.040 Physical education in grades one through eight.

28A.230.050 Physical education in high schools.

28A.230.060 Waiver of course of study in Washington's history and government.

28A.230.070 AIDS education in public schools—Limitations—Program adoption—Model curricula—Student's exclusion from participation.

- 28A.230.080 Prevention of child abuse and neglect—Written policy—Participation in and establishment of programs.
- 28A.230.090 High school graduation requirements or equivalencies—Reevaluation and report by state board of education.
- 28A.230.100 Rules implementing RCW 28A.230.090 to be adopted—Temporary exemptions—Special alterations—Competency testing.
- 28A.230.110 Elective requirement.
- 28A.230.120 High school diplomas—Issuance—Option to receive final transcripts—Notice.
- 28A.230.130 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions.
- 28A.230.140 United States flag—Procurement, display, exercises—National anthem.
- 28A.230.150 Temperance and Good Citizenship Day—Aids in programming.
- 28A.230.160 Educational activities in observance of Veterans' Day.
- 28A.230.170 Study of Constitutions compulsory—Rules to implement.
- 28A.230.180 Educational and career opportunities in the military, student access to information on, when.
- 28A.230.190 Assessment—Achievement tests.
- 28A.230.200 Repealed.
- 28A.230.210 Washington life skills test—Development and review—Use by school districts.
- 28A.230.220 High school and beyond assessment program.
- 28A.230.230 Annual assessment of eighth grade students.
- 28A.230.240 Annual assessment of eleventh grade students.
- 28A.230.250 Coordination of procedures and content of assessments.
- 28A.230.260 Annual report to the legislature.

**28A.230.010 Course content requirements—Duties of school district boards of directors.** School district boards of directors shall identify and offer courses with content that meet or exceed: (1) The basic education skills identified in RCW 28A.150.210; (2) the graduation requirements under RCW 28A.230.090; and (3) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130. Such courses may be applied or theoretical, academic or vocational. [1990 c 33 § 237; 1984 c 278 § 2. Formerly RCW 28A.05.005.]

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**28A.230.020 Common school curriculum—Fundamentals in conduct.** All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools. [1991 c 116 § 6; 1988 c 206 § 403; 1987 c 232 § 1; 1986 c 149 § 4; 1969 c 71 § 3; 1969 ex.s. c 223 § 28A.05.010. Prior:

1909 p 262 § 2; RRS § 4681; prior: 1897 c 118 § 65; 1895 c 5 § 1; 1890 p 372 § 45; 1886 p 19 § 52. Formerly RCW 28A.05.010, 28.05.010, and 28.05.020.]

**Effective date—1988 c 206 §§ 402, 403:** See note following RCW 28A.230.070.

**Severability—1988 c 206:** See RCW 70.24.900.

*Child abuse and neglect—Development of primary prevention program:* RCW 28A.300.160.

*Districts to develop programs and establish programs regarding child abuse and neglect prevention:* RCW 28A.230.080.

**28A.230.030 Students taught in English language—Exception.** All students in the common schools of the state of Washington shall be taught in the English language: PROVIDED, That nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student. [1969 c 71 § 4. Formerly RCW 28A.05.015.]

**28A.230.040 Physical education in grades one through eight.** Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule or regulation of the state board of education: PROVIDED, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics. [1984 c 52 § 1; 1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28A.05.030, 28.05.030.]

**28A.230.050 Physical education in high schools.** All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule or regulation of the state board of education: PROVIDED, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics or for other good cause. [1985 c 384 § 3; 1984 c 52 § 2; 1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28A.05.040, 28.05.040, part.]

**28A.230.060 Waiver of course of study in Washington's history and government.** Students in the twelfth grade who have not completed a course of study in Washington's history and state government because of previous residence outside the state may have the requirement in RCW 28A.230.090 waived by their principal. [1991 c 116 § 7; 1969 ex.s. c 57 § 2; 1969 ex.s. c 223 § 28A.05.050. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28A.05.050, 28.05.050.]

**28A.230.070 AIDS education in public schools—Limitations—Program adoption—Model curricula—Student's exclusion from participation.** (1) The

life-threatening dangers of acquired immunodeficiency syndrome (AIDS) and its prevention shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the life-threatening dangers of the disease, its spread, and prevention. Students shall receive such education at least once each school year beginning no later than the fifth grade.

(2) Each district board of directors shall adopt an AIDS prevention education program which is developed in consultation with teachers, administrators, parents, and other community members including, but not limited to, persons from medical, public health, and mental health organizations and agencies so long as the curricula and materials developed for use in the AIDS education program either (a) are the model curricula and resources under subsection (3) of this section, or (b) are developed by the school district and approved for medical accuracy by the office on AIDS established in RCW 70.24.250. If a district elects to use curricula developed by the school district, the district shall submit to the office on AIDS a copy of its curricula and an affidavit of medical accuracy stating that the material in the district-developed curricula has been compared to the model curricula for medical accuracy and that in the opinion of the district the district-developed materials are medically accurate. Upon submission of the affidavit and curricula, the district may use these materials until the approval procedure to be conducted by the office of AIDS has been completed.

(3) Model curricula and other resources available from the superintendent of public instruction through the state clearinghouse for educational information may be reviewed by the school district board of directors, in addition to materials designed locally, in developing the district's AIDS education program. The model curricula shall be reviewed for medical accuracy by the office on AIDS established in RCW 70.24.250 within the department of social and health services.

(4) Each school district shall, at least one month before teaching AIDS prevention education in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for such education. The parents and guardians shall be notified by the school district of the presentation and that the curricula and materials are available for inspection. No student may be required to participate in AIDS prevention education if the student's parent or guardian, having attended one of the district presentations, objects in writing to the participation.

(5) The office of the superintendent of public instruction with the assistance of the office on AIDS shall update AIDS education curriculum material as newly discovered medical facts make it necessary.

(6) The curriculum for AIDS prevention education shall be designed to teach students which behaviors place a person dangerously at risk of infection with the human immunodeficiency virus (HIV) and methods to avoid such risk including, at least:

(a) The dangers of drug abuse, especially that involving the use of hypodermic needles; and

(b) The dangers of sexual intercourse, with or without condoms.

(7) The program of AIDS prevention education shall stress the life-threatening dangers of contracting AIDS and shall stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on condoms puts a person at risk for exposure to the disease. [1988 c 206 § 402. Formerly RCW 28A.05.055.]

**Effective date**—1988 c 206 §§ 402, 403: "Sections 402 and 403 of this act shall take effect July 1, 1988." [1988 c 206 § 404.]

**Severability**—1988 c 206: See RCW 70.24.900.

**28A.230.080 Prevention of child abuse and neglect—Written policy—Participation in and establishment of programs.** (1) Every school district board of directors shall develop a written policy regarding the district's role and responsibility relating to the prevention of child abuse and neglect.

(2) Every school district shall, within the resources available to it: (a) Participate in the primary prevention program established under RCW 28A.300.160; (b) develop and implement its own child abuse and neglect education and prevention program; or (c) continue with an existing local child abuse and neglect education and prevention program. [1990 c 33 § 238; 1987 c 489 § 6. Formerly RCW 28A.58.255.]

**Intent**—1987 c 489: See note following RCW 28A.300.150.

**28A.230.090 High school graduation requirements or equivalencies—Reevaluation and report by state board of education.** (1) The state board of education shall establish high school graduation requirements or equivalencies for students who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:

SUBJECT	CREDITS
English	3
Mathematics	2
Social Studies	
United States history and government	1
Washington state history and government	1/2
Contemporary world history, geography, and problems	1
Science (1 credit must be in laboratory science)	2
Occupational Education	1
Physical Education	2
Electives	5 1/2
<b>Total</b>	<b>18</b>

(2) For the purposes of this section one credit is equivalent to one year of study.

(3) The Washington state history and government requirement may be fulfilled by students in grades seven or eight or both. Students who have completed the Washington state history and government requirement in grades seven or eight or both shall be considered to have fulfilled the Washington state history and government requirement.

(4) A candidate for graduation must have in addition earned a minimum of 18 credits including all required courses. These credits shall consist of the state requirements listed above and such additional requirements and electives as shall be established by each district.

(5) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(6) Pursuant to any foreign language requirement established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in sign language shall be considered to have satisfied the state or local school district foreign language graduation requirement.

(7) If requested by the student and his or her family, a student who has completed high school courses while in seventh and eighth grade shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(8) Students who have taken and successfully completed high school courses under the circumstances in subsection (7) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (7) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses while they were in seventh and eighth grade. [1990 1st ex.s. c 9 § 301; 1988 c 172 § 1; 1985 c 384 § 2; 1984 c 278 § 6. Formerly RCW 28A.05.060.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.185.010.

**Severability—1984 c 278:** See note following RCW 28A.320.220.

*International education program considered social studies offering:* RCW 28A.630.320.

**28A.230.100 Rules implementing RCW 28A.230.090 to be adopted—Temporary exemptions—Special alterations—Competency testing.** The state board of education shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the state

board deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the state board shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience. [1991 c 116 § 8; 1990 c 33 § 239; 1985 c 384 § 1. Formerly RCW 28A.05.062.]

**28A.230.110 Elective requirement.** The state board of education shall establish for students who commence the ninth grade subsequent to July 1, 1987, an additional one credit elective requirement to be chosen from fine, visual, or performing arts, any of the subject areas as set forth in RCW 28A.230.090, or any combination thereof. [1990 c 33 § 240; 1985 c 384 § 4. Formerly RCW 28A.05.064.]

**28A.230.120 High school diplomas—Issuance—Option to receive final transcripts—Notice.** (1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation. [1984 c 178 § 2. Formerly RCW 28A.58.108.]

*High school transcripts:* RCW 28A.305.220.

**28A.230.130 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions.** (1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) The state board of education, upon request from local school districts, may grant temporary exemptions from the requirements to provide the program described in subsection (1) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided. [1991 c 116 § 9; 1988 c 172 § 2; 1984 c 278 § 16. Formerly RCW 28A.05.070.]

**Effective date**—1984 c 278: "Sections 16, 18, and 19 of this act shall take effect July 1, 1986." [1984 c 278 § 23.] For codification of 1984 c 278, see Codification Tables, Volume 0.

**Severability**—1984 c 278: See note following RCW 28A.185.010.

**28A.230.140 United States flag—Procurement, display, exercises—National anthem.** The board of directors of every school district shall cause a United States flag being in good condition to be displayed during school hours upon or near every public school plant, except during inclement weather. They shall cause appropriate flag exercises to be held in each classroom at the beginning of the school day, and in every school at the opening of all school assemblies, at which exercises those pupils so desiring shall recite the following salute to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all". Students not reciting the pledge shall maintain a respectful silence. The salute to the flag or the national anthem shall be rendered immediately preceding interschool events when feasible. [1981 c 130 § 1; 1969 ex.s. c 223 § 28A.02.030. Prior: (i) 1961 c 238 § 1; 1955 c 8 § 1; 1919 c 90 § 4; 1915 c 71 § 1; 1909 c 97 p 286 § 3; 1897 c 118 § 180; RRS § 4777. Formerly RCW 28.02.030. (ii) 1955 c 8 § 2; 1919 c 90 § 5; RRS § 4778. Formerly RCW 28A.02.030, 28.87.180.]

*Display of national and state flags: RCW 1.20.015.*

**28A.230.150 Temperance and Good Citizenship Day—Aids in programming.** On January 16th of each year or the preceding Friday when January 16th falls on a nonschool day, there shall be observed within each public school "Temperance and Good Citizenship Day". Annually the state superintendent of public instruction shall duly prepare and publish for circulation among the teachers of the state a program for use on such day embodying topics pertinent thereto and may from year to year designate particular laws for special observance. [1969 ex.s. c 223 § 28A.02.090. Prior: (i) 1923 c 76 § 1; RRS § 4901-1. (ii) 1923 c 76 § 2; RRS § 4901-2. Formerly RCW 28A.02.090, 28.02.090, and 28.02.095.]

**28A.230.160 Educational activities in observance of Veterans' Day.** During the school week preceding the eleventh day of November of each year, there shall be presented in each common school as defined in RCW 28A.150.020 educational activities suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of the activities approximating at least sixty minutes total throughout the week shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of these activities if such aid be solicited. [1990 c 33 § 241; 1985 c 60 § 1; 1977 ex.s. c 120 § 2; 1975 1st ex.s. c 275 § 45; 1970 ex.s. c 15 § 12. Prior: 1969 ex.s. c 283 § 24; 1969 ex.s. c

176 § 101; 1969 ex.s. c 223 § 28A.02.070; prior: 1955 c 20 § 3; prior: (i) 1939 c 21 § 1; 1921 c 56 § 1; RRS § 4899. (ii) 1921 c 56 § 2; RRS § 4900. (iii) 1921 c 56 § 3; RRS § 4901. Formerly RCW 28A.02.070, 28.02.070.]

**Severability**—1977 ex.s. c 120: See note following RCW 4.28.080.

**Severability**—1970 ex.s. c 15: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 15 § 32.]

**Effective date**—1970 ex.s. c 15 § 12: "Notwithstanding any other provision of this 1970 amendatory act, the provisions of section 12 hereof shall not take effect until January 1, 1971 and only if at such time or thereafter chapter 223, Laws of 1969 ex. sess. is effective." [1970 ex.s. c 15 § 13.]

The above two annotations apply to 1970 ex.s. c 15. For codification of that act, see Codification Tables, Volume 0.

**Severability**—1969 ex.s. c 283: See note following RCW 28A.150.050.

**Rights preserved—Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.230.170 Study of Constitutions compulsory—Rules to implement.** The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state. The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section. [1985 c 341 § 1; 1969 ex.s. c 223 § 28A-.02.080. Prior: (i) 1925 ex.s. c 134 § 1; RRS § 4898-1. (ii) 1925 ex.s. c 134 § 2; RRS § 4898-2. Formerly RCW 28A.02.080, 28.02.080, and 28.02.081.]

**28A.230.180 Educational and career opportunities in the military, student access to information on, when.** If the board of directors of a school district provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military. [1980 c 96 § 1. Formerly RCW 28A.58.535.]

**28A.230.190 Assessment—Achievement tests.** (1) Every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the school district. This test shall be used to help teachers in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of

such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation.

(3) The superintendent of public instruction shall report annually to the legislature on the achievement levels of students in grade four. [1990 c 101 § 6; 1985 c 403 § 1; 1984 c 278 § 8; 1975-'76 2nd ex.s. c 98 § 1. Formerly RCW 28A.03.360.]

**Contingency—Effective date—1985 c 403:** "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, the amendment to RCW 28A.03.360 by section 1 of this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 403 § 2.]

**Reviser's note:** (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**Implementation—Funding required—1984 c 278:** See note following RCW 28A.300.110.

**Effective date—1975-'76 2nd ex.s. c 98:** "This 1976 amendatory act shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 98 § 3.]

**28A.230.200 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.230.210 Washington life skills test—Development and review—Use by school districts.** (1) The superintendent of public instruction shall prepare, in consultation with and with the assistance of school districts, a model test to assess students' ability to perform various functions common to everyday life. This model test shall be called the "Washington life skills test" and shall be made available to school districts for use at the district's option. The test shall include questions designed to determine students' academic growth and proficiency in skills generally thought to be useful in adult life, including but not limited to English, vocabulary, communications, and mathematical skills as such skills relate to career, consumer, economic, health, and other issues important to individuals becoming productive citizens. The superintendent of public instruction shall develop and implement a process to review periodically the contents of the test and make changes as may be appropriate or necessary.

(2) School districts may establish their own policies and procedures governing the use of the test. Districts may use the test as a requirement for graduation in conjunction with other state and local graduation requirements or for other purposes as districts may determine. [1984 c 278 § 11. Formerly RCW 28A.03.370.]

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**Implementation—Funding required—1984 c 278:** See note following RCW 28A.300.110.

**28A.230.220 High school and beyond assessment program.** The Washington state high school and beyond assessment program is hereby established to (1) provide information to guide students toward improved self-understanding, maximize use of their talents, and increase their awareness of the options available to them, all of which are essential to making informed decisions about choices in high school and beyond; and (2) provide information that will assist education policy makers, at all levels, determine the achievement levels of students, evaluate existing programs and services for students, identify appropriate new programs or services, and assess the effects of educational policies over time. [1990 c 101 § 1.]

**28A.230.230 Annual assessment of eighth grade students.** The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, an annual assessment of all students in the eighth grade. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school courses for students and to provide information about students' current academic proficiencies both in the basic skills of reading, mathematics, and language, and in the reasoning and thinking skills essential for successful entry into those courses required for high school graduation. The assessment shall also include the collection of information about students' interests and plans for high school and beyond and may include the collection of other related student and school information. The superintendent of public instruction shall make the results of the assessment available to all school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of RCW 28A.230.220 through 28A.230.260. [1990 c 101 § 2.]

**28A.230.240 Annual assessment of eleventh grade students.** The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, an annual assessment of all students in the eleventh grade beginning with the 1991-92 school year. The purposes of the assessment are to provide achievement and guidance information to students, parents, and teachers that will assist in reviewing students' current performance and planning effectively for their initial years beyond high school. The achievement measures shall assess students' strengths and deficiencies in the broad content areas common to the high school curriculum and those thinking and reasoning skills essential for completing high school graduation requirements and for success beyond high school. The assessment shall also collect information about students' career interests and plans and other related student and school information including students' high school course selection patterns, course credits, and grades. The superintendent of public instruction shall make the results of the assessment available to all local school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of RCW 28A.230.220 through 28A.230.260.

No grade ten students shall be tested in the fall of 1990 and the funds already appropriated for such testing shall be used for the planning and preliminary development work necessary to implement RCW 28A.230.220 through 28A.230.260. [1990 c 101 § 3.]

**28A.230.250 Coordination of procedures and content of assessments.** The superintendent of public instruction shall coordinate both the procedures and the content of the eighth and eleventh grade assessments to maximize the value of the information provided to students as they progress from eighth grade through high school and to teachers and parents about students' talents, interests, and academic needs or deficiencies so that appropriate programs can be provided to enhance the likelihood of students' success both in terms of high school graduation and beyond high school. [1990 c 101 § 4.]

**28A.230.260 Annual report to the legislature.** The superintendent of public instruction shall report annually to the legislature on the results of the achievement levels of students in grades eight and eleven. [1990 c 101 § 5.]

### Chapter 28A.235 FOOD SERVICES

#### Sections

- 28A.235.010 Superintendent of public instruction authorized to receive and disburse federal funds.
- 28A.235.020 Payment of costs—Federal food services revolving fund—Disbursements.
- 28A.235.030 Rules.
- 28A.235.040 Acquisition authorized.
- 28A.235.050 Contracts for—Other law applicable to.
- 28A.235.060 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense.
- 28A.235.070 Revolving fund created.
- 28A.235.080 Revolving fund—Administration of fund—Use—School district requisition as prerequisite.
- 28A.235.090 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund.
- 28A.235.100 Rules and regulations.
- 28A.235.110 Suspension of laws, rules, inconsistent herewith.
- 28A.235.120 Lunchrooms—Establishment and operation—Personnel for—Agreements for.
- 28A.235.130 Milk for children at school expense.
- 28A.235.140 School breakfast programs.

**28A.235.010 Superintendent of public instruction authorized to receive and disburse federal funds.** The superintendent of public instruction is hereby authorized to receive and disburse federal funds made available by acts of congress for the assistance of private nonprofit organizations in providing food services to children and adults according to the provisions of 20 U.S.C. Sec. 1751 et seq., the national school lunch act as amended, and 20 U.S.C. Sec. 1771, et seq., the child nutrition act of 1966, as amended. [1987 c 193 § 1. Formerly RCW 28A.29.010.]

**28A.235.020 Payment of costs—Federal food services revolving fund—Disbursements.** All reasonably ascertainable costs of performing the duties assumed and performed under RCW 28A.235.010 through

28A.235.030 and 28A.235.140 by either the superintendent of public instruction or another state or local governmental entity in support of the superintendent of public instruction's duties under RCW 28A.235.010 through 28A.235.030 and 28A.235.140 shall be paid exclusively with federal funds and, if any, private gifts and grants. The federal food services revolving fund is hereby established in the custody of the state treasurer. The office of the superintendent of public instruction shall deposit in the fund federal funds received under RCW 28A.235.010, recoveries of such funds, and gifts or grants made to the revolving fund. Disbursements from the fund shall be on authorization of the superintendent of public instruction or the superintendent's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The superintendent of public instruction is authorized to expend from the federal food services revolving fund such funds as are necessary to implement RCW 28A.235.010 through 28A.235.030 and 28A.235.140. [1990 c 33 § 242; 1987 c 193 § 2. Formerly RCW 28A.29.020.]

**28A.235.030 Rules.** The superintendent shall have the power to promulgate such rules in accordance with chapter 34.05 RCW as are necessary to implement this chapter. [1987 c 193 § 3. Formerly RCW 28A.29.030.]

**28A.235.040 Acquisition authorized.** Notwithstanding any other provision of law or chapter 39.32 RCW, the state superintendent of public instruction is hereby authorized to purchase, or otherwise acquire from the government of the United States or any property or commodity disposal agency thereof, surplus or donated food commodities for the use by any school district for their hot lunch program. [1969 ex.s. c 223 § 28A.30.010. Prior: 1967 ex.s. c 92 § 1. Formerly RCW 28A.30.010, 28.30.010.]

**28A.235.050 Contracts for—Other law applicable to.** The state superintendent of public instruction is hereby authorized to enter into any contract with the United States of America, or any agency thereof, for the purchase of any surplus or donated food commodities, without regard to the provisions of any other law requiring the advertising, giving notice, inviting or receiving bids, or which may require the delivery of purchases before payment. [1969 ex.s. c 223 § 28A.30.020. Prior: 1967 ex.s. c 92 § 7. Formerly RCW 28A.30.020, 28.30.020.]

**28A.235.060 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense.** In purchasing or otherwise acquiring surplus or donated commodities on the requisition of a school district the superintendent may advance the purchase price and other cost of acquisition thereof from the surplus and donated food commodities revolving fund and the superintendent shall in due course bill the proper school district for the amount paid by him or her for the commodities plus a reasonable

amount to cover the expenses incurred by the superintendent's office in connection with the transaction. All payments received for surplus or donated commodities from school districts shall be deposited by the superintendent in the surplus and donated food commodities revolving fund. [1990 c 33 § 243; 1969 ex.s. c 223 § 28A.30.030. Prior: 1967 ex.s. c 92 § 4. Formerly RCW 28A.30.030, 28.30.030.]

**28A.235.070 Revolving fund created.** There is created in the office of the state superintendent of public instruction a revolving fund to be designated the surplus and donated food commodities revolving fund. [1985 c 341 § 10; 1979 ex.s. c 20 § 1; 1969 ex.s. c 223 § 28A.30.040. Prior: 1967 ex.s. c 92 § 2. Formerly RCW 28A.30.040, 28.30.040.]

**28A.235.080 Revolving fund—Administration of fund—Use—School district requisition as prerequisite.** The surplus and donated food commodities revolving fund shall be administered by the state superintendent of public instruction and be used solely for the purchase or other acquisition, including transportation, storage and other cost, of surplus or donable food commodities from the federal government. The superintendent may purchase or otherwise acquire such commodities only after requisition by a school district requesting such commodities. [1969 ex.s. c 223 § 28A.30.050. Prior: 1967 ex.s. c 92 § 3. Formerly RCW 28A.30.050, 28.30.050.]

**28A.235.090 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund.** The surplus and donated food commodities revolving fund shall be deposited by the superintendent in such banks as he or she may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depository bank. Moneys shall be paid from the surplus and donated food commodities revolving fund by voucher and check in such form and in such manner as shall be prescribed by the superintendent. [1990 c 33 § 244; 1969 ex.s. c 223 § 28A.30.060. Prior: 1967 ex.s. c 92 § 5. Formerly RCW 28A.30.060, 28.30.060.]

**28A.235.100 Rules and regulations.** The superintendent of public instruction shall have power to promulgate rules and regulations as may be necessary to effectuate the purposes of RCW 28A.235.040 through 28A.235.110. [1990 c 33 § 245; 1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28A.30.070, 28.30.070.]

**28A.235.110 Suspension of laws, rules, inconsistent herewith.** Any provision of law, or any resolution, rule or regulation which is inconsistent with the provisions of RCW 28A.235.040 through 28A.235.110 is suspended to the extent such provision is inconsistent herewith.

[1990 c 33 § 246; 1969 ex.s. c 223 § 28A.30.080. Prior: 1967 ex.s. c 92 § 8. Formerly RCW 28A.30.080, 28.30.080.]

**28A.235.120 Lunchrooms—Establishment and operation—Personnel for—Agreements for.** The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils; certificated and noncertificated employees, and for school or employee functions: PROVIDED, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: PROVIDED FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as provided in RCW 28A.623.020: PROVIDED, FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals at cost as provided in RCW 28A.623.030 to children who are participating in educational or training or care programs or activities conducted by private, nonprofit organizations and entities and to students who are attending private elementary and secondary schools. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing their compensation, payable from the district general fund, or entering into agreement with a private agency for the establishment, management and/or operation of a food service program or any part thereof. [1990 c 33 § 247; 1979 ex.s. c 140 § 3; 1979 c 58 § 1; 1973 c 107 § 2; 1969 ex.s. c 223 § 28A.58.136. Prior: (i) 1947 c 31 § 1; 1943 c 51 § 1; 1939 c 160 § 1; Rem. Supp. 1947 § 4706-1. Formerly RCW 28A.58.136, 28.58.260. (ii) 1943 c 51 § 2; Rem. Supp. 1943 § 4706-2. Formerly RCW 28.58.270.]

**Severability—1979 ex.s. c 140:** See note following RCW 28A.225.200.

**Severability—1979 c 58:** See note following RCW 28A.623.030.  
*Nonprofit meal program for elderly—Purpose:* RCW 28A.623.010.

**28A.235.130 Milk for children at school expense.** The board of directors of any school district may cause to be furnished free of charge, in a suitable receptacle on each and every school day to such children in attendance desiring or in need of the same, not less than one-half pint of milk. The cost of supplying such milk shall be paid for in the same manner as other items of expense incurred in the conduct and operation of said school, except that available federal or state funds may be used therefor. [1969 ex.s. c 223 § 28A.31.020. Prior: 1935 c 15 § 1; 1923 c 152 § 1; 1921 c 190 § 1; RRS § 4806. Formerly RCW 28A.31.020, 28.31.020.]

*Food services—Use of federal funds:* Chapter 28A.235 RCW.

**28A.235.140 School breakfast programs.** (1) For the purposes of this section:

(a) "Free or reduced-price lunches" means lunches served by a school district that qualify for federal reimbursement as free or reduced-price lunches under the national school lunch program.

(b) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(c) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(2) School districts shall be required to develop and implement plans for a school breakfast program in severe-need schools, pursuant to the schedule in this section. For the second year prior to the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify as severe-need schools. In developing its plan, each school district shall consult with an advisory committee including school staff and community members appointed by the board of directors of the district.

(3) Using district-wide data on school lunch participation during the 1988-89 school year, the superintendent of public instruction shall adopt a schedule for implementation of school breakfast programs in severe-need schools as follows:

(a) School districts where at least forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1990. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1990-91 school year and in each school year thereafter.

(b) School districts where at least twenty-five but less than forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1991. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1991-92 school year and in each school year thereafter.

(c) School districts where less than twenty-five percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1992. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1992-93 school year and in each school year thereafter.

(d) School districts that did not offer a school lunch program in the 1988-89 school year are encouraged to implement such a program and to provide a school breakfast program in all severe-need schools when eligible.

(4) The requirements in this section shall lapse if the federal reimbursement rate for breakfasts served in severe-need schools is eliminated.

(5) Students who do not meet family-income criteria for free breakfasts shall be eligible to participate in the school breakfast programs established under this section, and school districts may charge for the breakfasts served to these students. School breakfast programs established under this section shall be supported entirely by federal funds and commodities, charges to students, and other local resources available for this purpose, and shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the Constitution. [1989 c 239 § 2. Formerly RCW 28A.29.040.]

**Study—1989 c 239:** "The superintendent of public instruction shall conduct a study of the costs and feasibility of expanding the school breakfast program to include schools where more than twenty-five but less than forty percent of lunches served are free or reduced-price lunches. The study shall consider the total cost of the program, including but not limited to food costs, staff salaries and benefits, and additional pupil transportation costs. The superintendent of public instruction shall submit to the legislature prior to January 15, 1992, a report on the results of this study, including recommendations on whether to expand the school breakfast program to include these schools." [1989 c 239 § 3.]

## Chapter 28A.240

### SCHOOL-BASED MANAGEMENT

#### Sections

- 28A.240.010 Pilot projects in school-based management—Superintendent's duties.
- 28A.240.020 Pilot projects in school-based management—Legislative findings and intent.
- 28A.240.030 Pilot projects in school-based management—School site councils required—School improvement plan.

**28A.240.010 Pilot projects in school-based management—Superintendent's duties.** To carry out the school-based management pilot projects of RCW 28A.240.030, the superintendent of public instruction shall:

(1) Grant funds to local school districts that apply for funding on a grant proposal or other basis, to establish pilot projects in school-based management: PROVIDED, That in at least one project every building in a district shall use school-based management;

(2) Develop guidelines, in consultation with school districts, for school-based management programs;

(3) Assist districts and schools, upon request, to design, implement, or evaluate school improvement programs authorized by RCW 28A.240.030;

(4) Submit a report to the legislature no later than two and one-half years after June 27, 1985, on the results of the pilot projects, any other similar programs being used in local districts, and any recommendations;

(5) These school-based management pilot projects are not part of the program of basic education which the state must fund under Article IX of the state Constitution. [1990 c 33 § 248; 1985 c 422 § 2. Formerly RCW 28A.03.423.]

**Contingency—Effective date—1985 c 422:** See note following RCW 28A.240.020.

**28A.240.020 Pilot projects in school-based management—Legislative findings and intent.** (1) The legislature believes that teachers, principals and other school administrators, parents, students, school district personnel, school board members, and members of the community, utilizing the results of continuing research on effective education, can best identify the educational goals, needs, and conditions of the community and develop and implement a basic education program that will provide excellence.

(2) To meet the goals set forth in this section, it is the intent and purpose of the legislature to encourage improvement of Washington's public school system by returning more control over the operation of local education programs to local districts through a program of pilot projects in school-based management. [1985 c 422 § 1. Formerly RCW 28A.58.081.]

**Contingency—Effective date—1985 c 422:** "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 422 § 5.]

**Reviser's note:** (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

**28A.240.030 Pilot projects in school-based management—School site councils required—School improvement plan.** (1) Each pilot project school that participates in the school-based management program authorized by RCW 28A.240.010 shall be required to establish a school site council. The council shall be minimally composed of the school principal, teachers, other school personnel, parents of pupils attending the school, nonparent community members from the school's service area, and, in secondary schools, pupils. Existing school-wide advisory groups or school support groups may be used as the school site council if such groups conform to the general membership requirements of this section.

(2) The exact size of the council and the term and method of selection and replacement of council members shall be specified in the school improvement plan developed pursuant to subsection (3) of this section.

(3) Each school site council shall be required to develop an annual school improvement plan containing improvement objectives as established by the council under guidelines developed by the superintendent of public instruction.

(4) The board of directors of each school district in which a school is participating in the school-based management program authorized by RCW 28A.240.010 shall review and approve or disapprove planning applications and school improvement plans consistent with, but not limited to, rules and regulations adopted by the superintendent of public instruction. No school improvement plan may be approved unless it was developed and recommended by a school site council. The board of directors shall notify the school site council in writing of

specific reasons for not approving the school improvement plan. Modifications to the plan shall be developed and recommended by the council and approved or disapproved by the board of directors. [1990 c 33 § 249; 1985 c 422 § 3. Formerly RCW 28A.58.082.]

**Contingency—Effective date—1985 c 422:** See note following RCW 28A.240.020.

## Chapter 28A.300

### SUPERINTENDENT OF PUBLIC INSTRUCTION

#### Sections

- 28A.300.010 Election—Term of office.
- 28A.300.020 Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel.
- 28A.300.030 Assistance of educational service district boards and superintendents—Scope.
- 28A.300.040 Powers and duties generally.
- 28A.300.050 Assistance to state board for activities involving professional educator excellence.
- 28A.300.060 Studies and adoption of classifications for school district budgets—Publication.
- 28A.300.070 Receipt of federal funds for school purposes—Superintendent of public instruction to administer.
- 28A.300.080 Vocational agriculture education—Intent.
- 28A.300.090 Vocational agriculture education—Service area established—Duties.
- 28A.300.100 Vocational agriculture education—Superintendent to adopt rules.
- 28A.300.110 Model curriculum programs or curriculum guidelines—Development—Review.
- 28A.300.120 Administrative hearing—Contract to conduct authorized—Final decision.
- 28A.300.130 Educational information—Superintendent's duties.
- 28A.300.140 State clearinghouse for educational information revolving fund.
- 28A.300.150 Information on child abuse and neglect prevention curriculum—Superintendent's duties.
- 28A.300.160 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.
- 28A.300.164 Energy information program.
- 28A.300.170 State general fund—Estimates for state support to public schools, from.
- 28A.300.180 Minority teacher recruitment program—Grants.
- 28A.300.190 Coordination of video telecommunications programming in schools.
- 28A.300.200 Teacher exchange programs—Pacific Rim nations. (Effective until January 1, 1992.)
- 28A.300.200 Teacher exchange programs. (Effective January 1, 1992.)
- 28A.300.210 Energy conservation—Report to legislature.
- 28A.300.220 Cooperation with work force training and education coordinating board.
- 28A.300.230 Findings—Integration of vocational and academic education.
- 28A.300.235 Development of model curriculum integrating vocational and academic education.
- 28A.300.240 International student exchange. (Effective January 1, 1992.)
- 28A.300.250 Participation in federal nutrition programs—Superintendent's duties.
- 28A.300.260 Teachers recruiting future teachers program.

**28A.300.010 Election—Term of office.** A superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his or her office for the term of four years, and until his or her successor is

elected and qualified. [1990 c 33 § 250; 1969 ex.s. c 223 § 28A.03.010. Prior: 1909 c 97 p 231 § 1; RRS § 4521; prior: 1897 c 118 § 20; 1891 c 127 § 1; 1890 p 348 § 3; Code 1881 § 3154; 1873 p 419 § 1; 1861 p 55 § 1. Formerly RCW 28A.03.010, 28.03.010, 43.11.010.]

**28A.300.020 Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel.** The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent. [1969 ex.s. c 223 § 28A.03.020. Prior: 1967 c 158 § 3; 1909 c 97 p 234 § 4; RRS § 4524; prior: 1905 c 56 § 1; 1903 c 104 § 10; 1897 c 118 § 23; 1890 p 351 § 5. Formerly RCW 28A.03.020, 28.03.020, 43.11.020.]

**28A.300.030 Assistance of educational service district boards and superintendents—Scope.** The superintendent of public instruction, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the superintendent of public instruction by law or by the Constitution of the state of Washington, upon such terms and conditions as the superintendent of public instruction shall establish. Such authority to assist the superintendent of public instruction shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 46; 1971 ex.s. c 282 § 29. Formerly RCW 28A.03.028.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.300.040 Powers and duties generally.** In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in \*RCW 28A.305.130(9), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for

the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio member and the chief executive officer of the state board of education.

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to.

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state.

(10) To issue certificates as provided by law.

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education.

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction.

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties.

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office.

(15) To perform such other duties as may be required by law. [1991 c 116 § 2; 1990 c 33 § 251; 1982 c 160 § 2; 1981 c 249 § 1; 1977 c 75 § 17; 1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348-351 §§ 3, 4; Code 1881 §§ 3155-3160; 1873 p 419 §§ 2-6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28A.03.030, 28-03.030, 43.11.030.]

**\*Reviser's note:** Subsection (9) of RCW 28A.305.130 was deleted by the 1991 c 116 amendments to RCW 28A.305.130.

**Severability—1982 c 160:** See note following RCW 28A.305.100.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**Studies—1969 ex.s. c 283:** "The superintendent of public instruction is directed to develop, prepare and make available information as follows:

(1) A budgetary study of the fiscal impact which would result from payment to substitute teachers, who are on a continuing basis of twelve or more days within any calendar month, at a rate of pay commensurate with their training and experience and at a per diem salary in proportion to the salary for which that teacher would be eligible as a full time teacher;

(2) A study showing the percentage of high school graduates who go on to an institution of higher education, including community colleges, the distribution of such students, and the percentage thereof which continue in higher education through the various grades or years thereof; and

(3) A study of the fiscal impact of establishing one hundred and eighty days as the base salary period for all contracts with certificated employees." [1969 ex.s. c 283 § 8.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28A.300.050 Assistance to state board for activities involving professional educator excellence.** The superintendent of public instruction shall provide technical assistance to the state board of education in the conduct of the activities described in \*sections 202 through 232 of this act. [1990 c 33 § 252; 1987 c 525 § 227. Formerly RCW 28A.03.375.]

**\*Reviser's note:** In addition to vetoed and temporary uncodified sections, "sections 202 through 232 of this act" [1987 c 525] includes the enactment of RCW 28A.04.122, 28A.70.010, 28A.04.167, 28A.70.400 through 28A.70.408, 28A.70.040, 28A.04.170, 28A.04.172, 28A.70.042, 28A.04.174, 28A.04.176, 28A.70.900, 28A.04.178, and 28A.03.375.

**Intent—Short title—1987 c 525 §§ 202-233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.300.060 Studies and adoption of classifications for school district budgets—Publication.** The superintendent of public instruction and the state auditor jointly, and in cooperation with the senate and house committees on education, shall conduct appropriate studies and adopt classifications or revised classifications under RCW 28A.505.100, defining what expenditures

shall be charged to each budget class including administration. The studies and classifications shall be published in the form of a manual or revised manual, suitable for use by the governing bodies of school districts, by the superintendent of public instruction, and by the legislature. [1991 c 116 § 3; 1990 c 33 § 253; 1975-'76 2nd ex.s. c 118 § 23; 1975 1st ex.s. c 5 § 1. Formerly RCW 28A.03.350.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.300.070 Receipt of federal funds for school purposes—Superintendent of public instruction to administer.** The state of Washington and/or any school district is hereby authorized to receive federal funds made or hereafter made available by acts of congress for the assistance of school districts in providing physical facilities and/or maintenance and operation of schools, or for any other educational purpose, according to provisions of such acts, and the state superintendent of public instruction shall represent the state in the receipt and administration of such funds. [1969 ex.s. c 223 § 28A.02.100. Prior: 1943 c 220 § 4; Rem. Supp. 1943 § 5109-4. Formerly RCW 28A.02.100, 28.02.100.]

**28A.300.080 Vocational agriculture education—Intent.** The legislature recognizes that agriculture is the most basic and singularly important industry in the state, that agriculture is of central importance to the welfare and economic stability of the state, and that the maintenance of this vital industry requires a continued source of trained and qualified individuals who qualify for employment in agriculture and agribusiness. The legislature declares that it is within the best interests of the people and state of Washington that a comprehensive vocational education program in agriculture be maintained in the state's secondary school system. [1983 1st ex.s. c 34 § 1. Formerly RCW 28A.03.415.]

**28A.300.090 Vocational agriculture education—Service area established—Duties.** (1) A vocational agriculture education service area within the office of the superintendent of public instruction shall be established. Adequate staffing of individuals trained or experienced in the field of vocational agriculture shall be provided for the vocational agriculture education service area for coordination of the state program and to provide assistance to local school districts for the coordination of the activities of student agricultural organizations and associations.

(2) The vocational agriculture education service area shall:

(a) Assess needs in vocational agriculture education, assist local school districts in establishing vocational agriculture programs, review local school district applications for approval of vocational agriculture programs, evaluate existing programs, plan research and studies for the improvement of curriculum materials for specialty areas of vocational agriculture. Standards and criteria developed under this subsection shall satisfy the mandates of federally-assisted vocational education;

(b) Develop in-service programs for teachers and administrators of vocational agriculture, review application for vocational agriculture teacher certification, and assist in teacher recruitment and placement in vocational agriculture programs;

(c) Serve as a liaison with the Future Farmers of America, representatives of business, industry, and appropriate public agencies, and institutions of higher education in order to disseminate information, promote improvement of vocational agriculture programs, and assist in the development of adult and continuing education programs in vocational agriculture; and

(d) Establish an advisory task force committee of agriculturists, who represent the diverse areas of the agricultural industry in Washington, which shall make annual recommendations including, but not limited to, the development of curriculum, staffing, strategies for the purpose of establishing a source of trained and qualified individuals in agriculture, and strategies for articulating the state program in vocational agriculture education, including youth leadership throughout the state school system. [1983 1st ex.s. c 34 § 2. Formerly RCW 28A.03.417.]

**28A.300.100 Vocational agriculture education—Superintendent to adopt rules.** The superintendent of public instruction, pursuant to chapter 34.05 RCW, shall adopt such rules as are necessary to carry out the provisions of RCW 28A.300.090. [1990 c 33 § 254; 1983 1st ex.s. c 34 § 3. Formerly RCW 28A.03.419.]

**28A.300.110 Model curriculum programs or curriculum guidelines—Development—Review.** The office of the superintendent of public instruction, in consultation with the state board of education, shall prepare model curriculum programs and/or curriculum guidelines in three subject areas each year. These model curriculum programs or curriculum guidelines shall span all grade levels and shall include statements of expected learning outcomes, content, integration with other subject areas including guidelines for the application of vocational and applied courses to fulfill in whole or in part the courses required for graduation under RCW 28A.230.090, recommended instructional strategies, and suggested resources.

Certificated employees with expertise in the subject area under consideration shall be chosen by the superintendent of public instruction from each educational service district, from a list of persons suggested by their peers, to work with the staff of the superintendent of public instruction to prepare each model curriculum program or curriculum guidelines. Each participant shall be paid his or her regular salary by his or her district, and travel and per diem expenses by the superintendent of public instruction. The superintendent of public instruction shall make selections of additional experts in the subject area under consideration as are needed to provide technical assistance and to review and comment upon the model curriculum programs and/or curriculum guidelines before publication and shall be paid travel and per diem expenses by the superintendent of public

instruction as necessary. The model curriculum programs and curriculum guidelines shall be made available to all districts. Participants developing model curriculum programs and/or curriculum guidelines may be used by school districts to provide training or technical assistance or both. After completion of the original development of model curriculum programs or curriculum guidelines, the office of the superintendent of public instruction shall schedule, at least every five years, a regular review and updating of programs and guidelines in each subject matter area. [1990 c 33 § 255; 1987 1st ex.s. c 2 § 208; 1987 c 197 § 1; 1984 c 278 § 5. Formerly RCW 28A.03.425.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Implementation—Funding required—1984 c 278:** "Implementation of sections 5, 11, and 21 of this act and the amendment to RCW 28A.03.360 by section 8 of this act are each subject to funds being appropriated or available for such purpose or purposes." [1984 c 278 § 22.] Sections 5, 11, and 21 of this act [1984 c 278] were codified as RCW 28A.03.425, 28A.03.370, and 28A.03.380, respectively.

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**28A.300.120 Administrative hearing—Contract to conduct authorized—Final decision.** Whenever a statute or rule provides for a formal administrative hearing before the superintendent of public instruction under chapter 34.05 RCW, the superintendent of public instruction may contract with the office of administrative hearings to conduct the hearing under chapter 34.12 RCW and may delegate to a designee of the superintendent of public instruction the authority to render the final decision. [1985 c 225 § 1. Formerly RCW 28A.03.500.]

**28A.300.130 Educational information—Superintendent's duties.** (1) Recent and expanding activity in educational research has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on education, the superintendent of public instruction shall act as the state clearinghouse for educational information.

(2) In carrying out this function, the superintendent of public instruction's primary duty shall be to collect, screen, organize, and disseminate information pertaining to the state's educational system from preschool through grade twelve, including but not limited to in-state research and development efforts; descriptions of exemplary, model, and innovative programs; and related information that can be used in developing more effective programs.

(3) The superintendent of public instruction shall maintain a collection of such studies, articles, reports, research findings, monographs, bibliographies, directories, curriculum materials, speeches, conference proceedings, legal decisions that are concerned with some aspect of the state's education system, and other applicable materials. All materials and information shall be considered public documents under chapter 42.17 RCW and

the superintendent of public instruction shall furnish copies of educational materials at nominal cost.

(4) The superintendent of public instruction shall coordinate the dissemination of information with the educational service districts and shall publish and distribute, on a monthly basis, a newsletter describing current activities and developments in education in the state. [1986 c 180 § 1. Formerly RCW 28A.03.510.]

*Effective substance abuse programs and penalties—Duties of clearinghouse: RCW 28A.170.060.*

*Project even start—Adult literacy—Duties of clearinghouse: RCW 28A.610.060.*

*School involvement programs—Duties of clearinghouse: RCW 28A.615.050.*

*Student motivation, retention, and retrieval programs—Duties of clearinghouse: RCW 28A.175.070.*

**28A.300.140 State clearinghouse for educational information revolving fund.** There is hereby created the state clearinghouse for educational information revolving fund in the custody of the state treasurer. The fund shall consist of: Funds appropriated to the revolving fund, gifts or grants made to the revolving fund, and fee revenues assessed and collected by the superintendent of public instruction pursuant to RCW 28A.300.130. The superintendent of public instruction is authorized to expend from the state clearinghouse for educational information revolving fund such funds as are necessary for the payment of costs, expenses, and charges incurred in the reproduction, handling, and delivery by mail or otherwise of materials and information furnished pursuant to RCW 28A.300.130(3).

The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1990 c 33 § 256; 1987 c 119 § 1. Formerly RCW 28A.03.511.]

**28A.300.150 Information on child abuse and neglect prevention curriculum—Superintendent's duties.** The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum through the state clearinghouse for education information. The superintendent of public instruction and the departments of social and health services and community development shall share relevant information. [1987 c 489 § 2. Formerly RCW 28A.03.512.]

**Intent—1987 c 489:** "It is the intent of the legislature to make child abuse and neglect primary prevention education and training available to children, including preschool age children, parents, school employees, and licensed day care providers." [1987 c 489 § 1.]

*State clearinghouse for educational information: RCW 28A.300.130.*

**28A.300.160 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.** (1) The office of the superintendent of public instruction shall be the lead agency and shall assist the department of social and health services, the department of community development, and school districts in establishing a coordinated primary prevention program for child abuse and neglect.

(2) In developing the program, consideration shall be given to the following:

(a) Parent, teacher, and children's workshops whose information and training is:

(i) Provided in a clear, age-appropriate, nonthreatening manner, delineating the problem and the range of possible solutions;

(ii) Culturally and linguistically appropriate to the population served;

(iii) Appropriate to the geographic area served; and

(iv) Designed to help counteract common stereotypes about child abuse victims and offenders;

(b) Training for school age children's parents and school staff, which includes:

(i) Physical and behavioral indicators of abuse;

(ii) Crisis counseling techniques;

(iii) Community resources;

(iv) Rights and responsibilities regarding reporting;

(v) School district procedures to facilitate reporting and apprise supervisors and administrators of reports; and

(vi) Caring for a child's needs after a report is made;

(c) Training for licensed day care providers and parents that includes:

(i) Positive child guidance techniques;

(ii) Physical and behavioral indicators of abuse;

(iii) Recognizing and providing safe, quality day care;

(iv) Community resources;

(v) Rights and responsibilities regarding reporting;

and

(vi) Caring for the abused or neglected child;

(d) Training for children that includes:

(i) The right of every child to live free of abuse;

(ii) How to disclose incidents of abuse and neglect;

(iii) The availability of support resources and how to obtain help;

(iv) Child safety training and age-appropriate self-defense techniques; and

(v) A period for crisis counseling and reporting immediately following the completion of each children's workshop in a school setting which maximizes the child's privacy and sense of safety.

(3) The primary prevention program established under this section shall be a voluntary program and shall not be part of the basic program of education.

(4) Parents shall be given notice of the primary prevention program and may refuse to have their children participate in the program. [1987 c 489 § 3. Formerly RCW 28A.03.514.]

**Intent—1987 c 489:** See note following RCW 28A.300.150.

**28A.300.164 Energy information program.** The office of the superintendent of public instruction shall develop an energy information program for use in local school districts. The program shall utilize existing curriculum which may include curriculum as developed by districts or the state relating to the requirement under RCW 28A.230.020 that schools provide instruction in science with special reference to the environment, and shall include but not be limited to the following elements:

(1) The fundamental role energy plays in the national and regional economy;

(2) Descriptions and explanations of the various sources of energy which are used both regionally and nationally;

(3) Descriptions and explanations of the ways to use various energy sources more efficiently; and

(4) Advantages and disadvantages to the various sources of present and future supplies of energy.

Under this section the office of superintendent of public instruction shall emphasize providing teacher training, promoting the use of local energy experts in the classroom, and dissemination of energy education curriculum. [1990 c 301 § 2.]

**Findings—1990 c 301:** "The legislature finds that the state is facing an impending energy supply crisis. The legislature further finds that keeping the importance of energy in the minds of state residents is essential as a means to help avert a future energy supply crisis and that citizens need to be aware of the importance and trade-offs associated with energy efficiency, the implications of wasteful uses of energy, and the need for long-term stable supplies of energy. One efficient and effective method of informing the state's citizens on energy issues is to begin in the school system, where information may guide energy use decisions for decades into the future." [1990 c 301 § 1.]

**28A.300.170 State general fund—Estimates for state support to public schools, from.** At such time as the governor shall determine under the provisions of chapter 43.88 RCW, the superintendent of public instruction shall submit such detailed estimates and other information to the governor and in such form as the governor shall determine of the total estimated amount required for appropriation from the state general fund for state support to public schools during the ensuing biennium. [1980 c 6 § 2; 1969 ex.s. c 223 § 28A.41.040. Prior: 1945 c 141 § 11; Rem. Supp. 1945 § 4940-9. Formerly RCW 28A.41.040, 28.41.040.]

**Severability—1980 c 6:** See note following RCW 28A.515.320.

**28A.300.180 Minority teacher recruitment program—Grants.** The superintendent of public instruction may grant funds, from moneys appropriated for the purpose of the Washington state minority teacher recruitment program, to selected institutions of higher education and selected school districts to assist in the development and implementation of the teacher recruitment program. [1989 c 146 § 3. Formerly RCW 28A.67.270.]

**28A.300.190 Coordination of video telecommunications programming in schools.** The office of the superintendent of public instruction shall provide state-wide coordination of video telecommunications programming for the common schools. [1990 c 208 § 8.]

**28A.300.200 Teacher exchange programs—Pacific Rim nations.** (Effective until January 1, 1992.) The superintendent of public instruction shall encourage school districts to establish exchange programs for teachers with schools in Pacific Rim nations. [1990 c 243 § 9.]

**28A.300.200 Teacher exchange programs.** (Effective January 1, 1992.) To complement RCW

28A.630.230 and chapter 28B.107 RCW, the superintendent of public instruction shall, subject to available funding, coordinate and sponsor student and teacher exchanges between Washington schools and schools in Pacific Rim nations and other nations. The superintendent may solicit and accept grants and donations from public and private sources for the student and teacher exchange program. [1991 c 128 § 13; 1990 c 243 § 9.]

**Severability—Effective date—1991 c 128:** See RCW 19.166.900 and 19.166.901.

**28A.300.210 Energy conservation—Report to legislature.** The office of the superintendent of public instruction shall report annually to the energy and utilities committees of the house of representatives and the senate regarding the effects of chapter 201, Laws of 1991, on school districts throughout the state. [1991 c 201 § 18.]

**Captions not law—Severability—1991 c 201:** See RCW 39.35C.900 and 39.35C.901.

**28A.300.220 Cooperation with work force training and education coordinating board.** The superintendent shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board. [1991 c 238 § 78.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28A.300.230 Findings—Integration of vocational and academic education.** The legislature finds that the needs of the work force and the economy necessitate enhanced vocational education opportunities in secondary education including curriculum which integrates vocational and academic education. In order for the state's work force to be competitive in the world market, employees need competencies in both vocational/technical skills and in core essential competencies such as English, math, science/technology, geography, history, and critical thinking. Curriculum which integrates vocational and academic education reflects that many students learn best through applied learning, and that students should be offered flexible education opportunities which prepare them for both the world of work and for higher education. [1991 c 238 § 140.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28A.300.235 Development of model curriculum integrating vocational and academic education.** The superintendent of public instruction shall with the advice of the work force training and education coordinating board develop model curriculum integrating vocational and academic education at the secondary level. The curriculum shall integrate vocational education for gainful employment with education in the academic subjects of English, math, science/technology, geography, and history, and with education in critical thinking. Upon completion, the

model curriculum shall be provided for consideration and use by school districts. [1991 c 238 § 141.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28A.300.240 International student exchange.** (Effective January 1, 1992.) (1) The superintendent of public instruction shall annually make available to school districts and approved private schools, from data supplied by the secretary of state, the names of international student exchange visitor placement organizations registered under chapter 19.166 RCW to place students in public schools in the state and a summary of the information the organizations have filed with the secretary of state under chapter 19.166 RCW.

(2) The superintendent shall provide general information and assistance to school districts regarding international student exchange visitors, including, to the extent feasible with available resources, information on the type of visa required for enrollment, how to promote positive educational experiences for visiting exchange students, and how to integrate exchange students into the school environment to benefit the education of both the exchange students and students in the state. [1991 c 128 § 11.]

**Severability—Effective date—1991 c 128:** See RCW 19.166.900 and 19.166.901.

**28A.300.250 Participation in federal nutrition programs—Superintendent's duties.** The superintendent of public instruction shall aggressively solicit eligible schools, child and adult day care centers, and other organizations to participate in the nutrition programs authorized by the United States department of agriculture. [1991 c 366 § 402.]

**Finding—1991 c 366:** "Hunger and malnutrition threaten the future of a whole generation of children in Washington. Children who are hungry or malnourished are unable to function optimally in the classroom and are thus at risk of lower achievement in school. The resultant diminished future capacity of and opportunities for these children will affect this state's economic and social future. Thus, the legislature finds that the state has an interest in helping families provide nutritious meals to children.

The legislature also finds that the state has an interest in helping hungry and malnourished adults obtain necessary nourishment. Adequate nourishment is necessary for physical health, and physical health is the foundation of self-sufficiency. Adequate nourishment is especially critical in the case of pregnant and lactating women, both to ensure that all mothers and babies are as healthy as possible and to minimize the costs associated with the care of low-birthweight babies." [1991 c 366 § 1.]

**Finding—1991 c 366:** "The legislature finds that the school breakfast and lunch programs, the summer feeding program, and the child and adult day care feeding programs authorized by the United States department of agriculture are effective in addressing unmet nutritional needs. However, some communities in the state do not participate in these programs. The result is hunger, malnutrition, and inadequate nutrition education for otherwise eligible persons living in nonparticipating communities." [1991 c 366 § 401.]

**Parts and headings not law—1991 c 366:** "Parts and headings as used in this act constitute no part of the law." [1991 c 366 § 502.]

**Severability—1991 c 366:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 366 § 503.]

**Effective date—1991 c 366:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 366 § 504.]

**28A.300.260 Teachers recruiting future teachers program.** (1) The teachers recruiting future teachers program is created within the office of the superintendent of public instruction to help enlarge the pool of qualified high school students who are motivated to become teachers.

(2) Subject to funds being appropriated, the superintendent of public instruction shall:

(a) Promote and replicate the teachers recruiting future teachers model program; and

(b) Promote and expand the annual education week program on the campus of Central Washington University or on the campuses of other interested state institutions of higher education.

(3) The superintendent of public instruction, working with the executive director of the teachers recruiting future teachers program and the director of the education week program at Central Washington University, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this section. [1991 c 252 § 1.]

## Chapter 28A.305

### STATE BOARD OF EDUCATION

#### Sections

- 28A.305.010 Composition of board.
- 28A.305.020 Call and notice of elections.
- 28A.305.030 Elections in new congressional districts—Call and conduct of—Member terms.
- 28A.305.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office.
- 28A.305.050 Qualifications of voters—Ballots—Voting instructions—Candidates' biographical data.
- 28A.305.060 Election procedure—Certificate.
- 28A.305.070 Action to contest election—Grounds—Procedure.
- 28A.305.080 Terms of office.
- 28A.305.090 Vacancies, filling.
- 28A.305.100 Superintendent as ex officio member and chief executive officer of board.
- 28A.305.110 Ex officio secretary of board.
- 28A.305.120 Meetings—Compensation and travel expenses of members.
- 28A.305.130 Powers and duties generally.
- 28A.305.140 Waiver from provisions of RCW 28A.150.200 through 28A.150.220 authorized, when—Criteria by board.
- 28A.305.150 Classification, numbering system of school districts—Rules and regulations for.
- 28A.305.160 Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students.
- 28A.305.170 Rules and regulations accepting national guard high school career training.
- 28A.305.180 Repealed.
- 28A.305.190 Certificate of educational competence, rules for issuance.
- 28A.305.200 Seal.
- 28A.305.210 Assistance of educational service district boards and superintendents—Scope.
- 28A.305.220 Development of standardized high school transcripts—School districts to inform students of importance.

- 28A.305.230 Program standards for professional programs—Instruction in child abuse issues encouraged.
- 28A.305.240 Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education.
- 28A.305.245 Teacher preparation program faculty—Instruction in K–12 classrooms.
- 28A.305.250 Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature.
- 28A.305.260 Recodified as RCW 28A.415.200.
- 28A.305.270 Recodified as RCW 28A.415.205.

**28A.305.010 Composition of board.** The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of public instruction and one member elected at large, as provided in this chapter, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board. [1990 c 33 § 257; 1988 c 255 § 1; 1980 c 179 § 1; 1969 ex.s. c 223 § 28A.04.010. Prior: 1955 c 218 § 1; 1947 c 258 § 1; 1925 ex.s. c 65 § 1; 1909 c 97 p 234 § 1; RRS § 4525; prior: 1907 c 240 § 2; 1901 c 177 § 6; 1897 c 118 § 24; 1890 p 352 § 6; Code 1881 § 3163. Formerly RCW 28A.04.010, 28.04.010, 43.63.010.]

**Severability—1988 c 255:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 255 § 4.]

**Severability—1980 c 179:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 179 § 8.]

**28A.305.020 Call and notice of elections.** Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chair of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the election calendar and rules and regulations established by the superintendent of public instruction for the conduct of the election. [1990 c 33 § 258; 1988 c 255 § 2; 1981 c 38 § 1; 1969 ex.s. c 223 § 28A.04.020. Prior: 1955 c 218 § 2; 1947 c 258 § 2; Rem.

Supp. 1947 § 4525–1. Formerly RCW 28A.04.020, 28.04.020, 43.63.020.]

**Severability—1988 c 255:** See note following RCW 28A.305.010.

**Severability—1981 c 38:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 38 § 5.]

**28A.305.030 Elections in new congressional districts—Call and conduct of—Member terms.** (1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.305.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election two members of the state board of education shall be elected, one for a term of three years and one for a term of six years. At the expiration of the term of each, a member shall be elected for a term of six years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28A.305.090 by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected. [1990 c 33 § 259; 1982 1st ex.s. c 7 § 1; 1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28A.04.030, 28.04.030, 43.63.021.]

**Severability—1982 1st ex.s. c 7:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 7 § 3.]

**28A.305.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office.** (1) Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September.

The superintendent of public instruction may not accept any declaration of candidacy that is not on file in the superintendent's office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he or she was elected. No member of a board of directors of a local school district or private school shall continue to serve in that capacity after having been elected to the state board.

(2) The prohibitions against membership upon the board of directors of a school district or school and against employment, as well as the residence requirement, established by this section, are conditions to the eligibility of state board members to serve as such which apply throughout the terms for which they have been elected or appointed. Any state board member who hereafter fails to meet one or more of the conditions to eligibility shall be deemed to have immediately forfeited his or her membership upon the board for the balance of his or her term: **PROVIDED**, That such a forfeiture of office shall not affect the validity of board actions taken prior to the date of notification to the board during an open public meeting of the violation. [1990 c 33 § 260; 1982 1st ex.s. c 7 § 2; 1980 c 179 § 4; 1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28A.04.040, 28.04.040, 43.63.023.]

**Severability**—1982 1st ex.s. c 7: See note following RCW 28A.305.030.

**Severability**—1980 c 179: See note following RCW 28A.305.010.

**Severability**—1971 c 48: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 48 § 55.] For codification of 1971 c 48, see Codification Tables, Volume 0.

**28A.305.050 Qualifications of voters—Ballots—Voting instructions—Candidates' biographical data.** Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his or her congressional district. Each chair of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the member representing private schools on the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each chair of the board of directors of each private school, the proper ballot and voting instructions

for his or her congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate. [1990 c 33 § 261; 1988 c 255 § 3; 1981 c 38 § 2; 1969 ex.s. c 223 § 28A.04.050. Prior: 1955 c 218 § 6. Formerly RCW 28A.04.050, 28.04.050, 43.63.025.]

**Severability**—1988 c 255: See note following RCW 28A.305.010.

**Severability**—1981 c 38: See note following RCW 28A.305.020.

**28A.305.060 Election procedure—Certificate.**

Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October. The votes shall be counted and tallied and electoral points determined in the following manner for the ballot cast by common school district board directors: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: **PROVIDED**, That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. The votes shall be counted and electoral points determined in the following manner for the ballots cast by chairs of the board of directors of each private school: Each vote cast by a private school board shall be accorded as many electoral points as the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the month of September in the year previous to the year of election and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received

by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education. [1990 c 33 § 262; 1981 c 38 § 3; 1980 c 179 § 5; 1975 c 19 § 2; 1969 ex.s. c 283 § 25; 1969 ex.s. c 223 § 28A.04.060. Prior: 1967 c 158 § 1; 1955 c 218 § 4; 1947 c 258 § 3; Rem. Supp. 1947 § 4525-2. Formerly RCW 28A.04.060, 28.04.060, 43.63.030.]

**Severability—1981 c 38:** See note following RCW 28A.305.020.

**Severability—1980 c 179:** See note following RCW 28A.305.010.

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28A.305.070 Action to contest election—**  
**Grounds—Procedure.** Any common school district board member or any private school board member eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the state superintendent of public instruction's certification of election, may contest the election of the candidate for any of the following causes:

- (1) For malconduct on the part of the state superintendent of public instruction or any member of the election board with respect to such election;
- (2) Because the person whose right is being contested was not eligible for membership on the state board of education at the time the person was certified as elected;
- (3) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of the election for the purpose of procuring the person's election, or offered to do so;
- (4) On account of illegal votes.

An action contesting an election pursuant to this section shall be conducted in compliance with RCW 29.65-.020 and 29.65.040 through 29.65.120, as now or hereafter amended. [1980 c 179 § 6; 1975 c 19 § 1. Formerly RCW 28A.04.065.]

**Severability—1980 c 179:** See note following RCW 28A.305.010.

**28A.305.080 Terms of office.** The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he or she was elected, and he or she shall hold office for the term for which he or she was elected and until his or her successor is elected and qualified. Except as otherwise provided in RCW 28A.305.030, each member of the state board of education shall be elected for a term of six years. [1990 c 33 § 263; 1969 ex.s. c 223 § 28A.04.070. Prior: 1955 c 218 §

7; 1947 c 258 § 9; Rem. Supp. 1947 § 4525-8. Formerly RCW 28A.04.070, 28.04.070, 43.63.090.]

**28A.305.090 Vacancies, filling.** Whenever there shall be a vacancy upon the state board of education, from any cause whatever, it shall be the duty of the remaining members of the board to fill such vacancy by appointment, and the person so appointed shall continue in office until his or her successor has been specially elected, as hereinafter in this section provided, and has qualified. Whenever a vacancy occurs, the superintendent of public instruction shall call, in the month of August next following the date of the occurrence of such vacancy, a special election to be held in the same manner as other elections provided for in this chapter, at which election a successor shall be elected to hold office for the unexpired term of the member whose office was vacated. [1990 c 33 § 264; 1969 ex.s. c 223 § 28A.04.080. Prior: 1955 c 218 § 8; 1947 c 258 § 10; Rem. Supp. 1947 § 4525-9. Formerly RCW 28A.04.080, 28.04.080, 43.63.100.]

**28A.305.100 Superintendent as ex officio member and chief executive officer of board.** The state board of education shall annually elect a president and vice president. The superintendent of public instruction shall be an ex officio member and the chief executive officer of the board. As such ex officio member the superintendent shall have the right to vote only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection. [1982 c 160 § 1; 1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28A.04.090, 28.04.090, 43.63.110.]

**Severability—1982 c 160:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 160 § 4.]

**28A.305.110 Ex officio secretary of board.** The state board of education shall appoint some person to be ex officio secretary of said board who shall not be entitled to a vote in its proceedings. The secretary shall keep a correct record of board proceedings, which shall be kept in the office of the superintendent of public instruction. He or she shall also, upon request, furnish to interested school officials a copy of such proceedings. [1990 c 33 § 265; 1982 c 160 § 3; 1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527. Formerly RCW 28A.04.100, 28.04.100, 43.63.120.]

**Severability—1982 c 160:** See note following RCW 28A.305.100.  
*Records of meetings kept by superintendent of public instruction:*  
RCW 28A.300.040.

**28A.305.120 Meetings—Compensation and travel expenses of members.** The state board of education shall hold an annual meeting and such other regular meetings at such time and place within the state as the board

shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction, or by a majority of the board. The persons serving as members of the state board of education shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed by the superintendent of public instruction for travel expenses in accordance with RCW 43.03.050 and 43.03.060 incurred in the performance of their duties which expenses shall be paid by the state treasurer on warrants out of funds appropriated or otherwise available, upon the order of the superintendent. [1984 c 287 § 60; 1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28A.04.110, 28.04.110, 43.63.130.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Records of meetings kept by superintendent of public instruction:** RCW 28A.300.040.

**State treasurer to issue state warrants:** RCW 43.88.160.

**28A.305.130 Powers and duties generally.** In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a noncertificated teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher

preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a noncertificated teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a noncertificated teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(11) By rule or regulation promulgated upon the advice of the director of community development, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. [1991 c 116 § 11; 1990 c 33 § 266. Prior: 1987 c 464 § 1; 1987 c 39 § 1; prior: 1986 c 266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28A.04.120, 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

**Severability**—1986 c 266: See note following RCW 38.52.005.

**Severability**—1984 c 40: See note following RCW 28A.195.050.

**Severability**—1975-'76 2nd ex.s. c 92: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 92 § 6.]

*Child abuse and neglect—Development of primary prevention program: RCW 28A.300.160.*

*Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.225.200.*

*Professional certification not to be required of superintendents, deputy or assistant superintendents: RCW 28A.410.120.*

*Use of force on children—Policy—Actions presumed unreasonable: RCW 9A.16.100.*

**28A.305.140 Waiver from provisions of RCW 28A-.150.200 through 28A.150.220 authorized, when—Criteria by board.** The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

The state board shall adopt criteria to evaluate the need for the waiver or waivers. [1990 c 33 § 267; 1985 c 349 § 6. Formerly RCW 28A.04.127.]

**Severability**—1985 c 349: See note following RCW 28A.320.200.

**28A.305.150 Classification, numbering system of school districts—Rules and regulations for.** The state board of education is hereby empowered, and it shall be the duty of said board, to prescribe rules and regulations governing the classification and numbering system of school districts, except as otherwise provided by law. [1971 c 54 § 1; 1969 ex.s. c 223 § 28A.04.130. Prior: 1917 c 21 § 2; RRS § 4711. Formerly RCW 28A.04-.130, 28.04.130, 28.01.040, part; 43.63.150.]

**Severability**—1971 c 54: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 54 § 2.]

**28A.305.160 Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students.** The state board of education shall adopt and distribute to all school districts lawful and reasonable rules and regulations prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules and regulations shall authorize a school district to use informal due process procedures in connection with the short term suspension of students to the extent constitutionally permissible: PROVIDED, That the state board deems the interest of students to be adequately protected. [1975-'76 2nd ex.s. c 97 § 1; 1971 ex.s. c 268 § 2. Formerly RCW 28A.04.132.]

**28A.305.170 Rules and regulations accepting national guard high school career training.** In addition to any other powers and duties as provided by law, the state board of education shall adopt rules and regulations governing and authorizing the acceptance of national guard high school career training in lieu of either required high school credits or elective high school credits. Students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program. [1975 1st ex.s. c 262 § 1. Formerly RCW 28A.04.133.]

**28A.305.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.305.190 Certificate of educational competence, rules for issuance.** The state board of education shall adopt rules and regulations governing the conditions by and under which a certificate of educational competence may be issued to a person nineteen years of age or older, or to a child fifteen years of age and under nineteen years of age if the child provides a substantial and warranted reason for leaving the regular high school education program, or if the child was home-schooled. [1991 c 116 § 5; 1973 c 51 § 2. Formerly RCW 28A.04.135.]

**Severability**—1973 c 51: See note following RCW 28A.225.010.  
*Waiver of fees or residency requirements at community colleges for students completing a high school education: RCW 28B.15.520.*

**28A.305.200 Seal.** The state board of education shall adopt a seal which shall be kept in the office of the superintendent of public instruction. [1969 ex.s. c 223 § 28A.04.140. Prior: 1909 c 97 p 238 § 7; RRS § 4531. Formerly RCW 28A.04.140, 28.04.140, 28.01.040, part; 43.63.160.]

**28A.305.210 Assistance of educational service district boards and superintendents—Scope.** The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 51; 1971 ex.s. c 282 § 30. Formerly RCW 28A.04.145.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.305.220 Development of standardized high school transcripts—School districts to inform students of importance.** (1) The state board of education shall develop for use by all public school districts a standardized high school transcript. The state board of education shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment. [1984 c 178 § 1. Formerly RCW 28A.04.155.]

*High school diplomas—Receiving final transcript optional:* RCW 28A.230.120.

**28A.305.230 Program standards for professional programs—Instruction in child abuse issues encouraged.** The legislature finds that learning is more difficult for many children because they are the victims of child abuse. Educators are often in a position to identify and assist these children in coping with their unfortunate circumstances. Educators should be trained to deal with this responsibility. The legislature, therefore, encourages the state board of education to include in its program standards for professional preparation programs instruction in child abuse issues. [1985 c 419 § 1. Formerly RCW 28A.04.165.]

**Severability—1985 c 419:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 419 § 7.]

**28A.305.240 Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education.** In developing the standards under RCW 28A.410.040, 28A.410.050, and 28A.410.150 through 28A.410.190, the state board of education shall review ways to strengthen program unit functions and processes to enhance cooperative agreements between public or private institutions of higher education and schools or school districts. [1990 c 33 § 268; 1987 c 525 § 217. Formerly RCW 28A.04.176.]

**Intent—Short title—1987 c 525 §§ 202–233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.305.245 Teacher preparation program faculty—Instruction in K–12 classrooms.** In addition to other approval requirements for teacher preparation programs under RCW 28A.305.130(1), the state board of education shall require that the program annually develop and implement a plan to increase the level of collaboration and interaction between the program's faculty and K–12 schools in the state. The plan shall require, to the maximum extent feasible, that each member of the faculty annually provide instruction in K–12 classrooms. [1991 c 259 § 3.]

**Findings—1991 c 259:** "The legislature finds that the demands on teachers in the K–12 schools are evolving as society changes. Factors such as the increase in the number of single-parent households, drug and alcohol abuse, high dropout rates, and increasing rates of crime, among other things, are changing the nature of the teaching enterprise. The legislature also finds that college and university faculty engaged in training prospective teachers need to have first-hand experience of the nature of this changing enterprise. The legislature finds that a recently certified teacher in the K–12 system is required to engage in continuing education in order to stay current in his or her field. The legislature intends to require higher education faculty whose primary responsibility is teaching prospective teachers to engage in a form of public service and continuing education by teaching in the public schools." [1991 c 259 § 1.]

**28A.305.250 Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature.** The state board of education and the office of the superintendent of public instruction shall review the provisions of the interstate agreement on qualifications of educational personnel under chapter 28A.690 RCW, and advise the governor and the legislature on which interstate reciprocity provisions will require amendment to be consistent with RCW 28A.410.040 and 28A.410.050 by January 1, 1992. [1990 c 33 § 269; 1989 c 11 § 4; 1987 c 525 § 226. Formerly RCW 28A.04.178.]

**Severability—1989 c 11:** See note following RCW 9A.56.220.

**Intent—Short title—1987 c 525 §§ 202–233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.305.260 Recodified as RCW 28A.415.200.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.305.270 Recodified as RCW 28A.415.205.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 28A.310

#### EDUCATIONAL SERVICE DISTRICTS

##### Sections

- 28A.310.010 Purpose.
- 28A.310.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties.
- 28A.310.030 ESD board—Members—Number, from board-member districts—Board-member district boundaries, determination of, changes in.
- 28A.310.040 ESD board—Members—Terms.
- 28A.310.050 ESD board—Members—Terms, when nine member board.
- 28A.310.060 ESD board—Members—Terms, begin when—Vacancies, filling of.
- 28A.310.070 ESD board—Members—Restriction on other service.
- 28A.310.080 ESD board—Members—Elections, calling and notice of.
- 28A.310.090 ESD board—Members—Elections, filing of declarations of candidacy.
- 28A.310.100 ESD board—Members—Elections, procedure—Certification of results.
- 28A.310.110 ESD board—Members—Elections, contest of.
- 28A.310.120 ESD board—Return to seven member board.
- 28A.310.130 ESD board—Vacation of board member position because of failure to attend meetings.
- 28A.310.140 School district to be entirely within single educational service district.
- 28A.310.150 ESD board—Members, qualification, oath, bond—Organization—Quorum.
- 28A.310.160 ESD board—Reimbursement of members for expenses.
- 28A.310.170 ESD superintendent—Appointment, procedure—Term, salary, discharge—ESD superintendent review committee.
- 28A.310.180 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs including pupil transportation.
- 28A.310.190 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data.
- 28A.310.200 ESD board—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority.
- 28A.310.210 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions.
- 28A.310.220 ESD board—Delegation of powers and duties to superintendent.
- 28A.310.230 Assistant superintendents and other personnel—Appointment, salaries, duties.
- 28A.310.240 Employee leave policy required.
- 28A.310.250 Certificated employees of district—Contracts of employment—Nonrenewal of contracts.
- 28A.310.260 Certificated employees of district—Adverse change in contract status—Notice—Probable cause—Review—Appeal.
- 28A.310.270 ESD superintendent's powers and duties—Generally.
- 28A.310.280 ESD superintendent's powers and duties—Records and reports.
- 28A.310.290 ESD superintendent's powers and duties—Oaths and affirmations.
- 28A.310.300 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization.
- 28A.310.310 Headquarters office—Records transferred, state board duties.
- 28A.310.320 ESD superintendents, employees—Travel expenses and subsistence—Advance payment.
- 28A.310.330 Budgeting procedures for districts.
- 28A.310.340 Identification of core services for budget purposes—Generally.
- 28A.310.350 Identification of core services for budget purposes—Specific services listed.
- 28A.310.360 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request.
- 28A.310.370 District budget—State funds, allocation of—District general expense fund—Created, deposits, expenditures.
- 28A.310.380 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries.
- 28A.310.390 District budget request—Procedure for approval.
- 28A.310.400 Legal services.
- 28A.310.410 Ex officio treasurer of district.
- 28A.310.420 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained.
- 28A.310.430 Local school district superintendents to advise board and superintendent.
- 28A.310.440 ESD as self-insurer—Authority.
- 28A.310.450 Repealed.
- 28A.310.460 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.
- 28A.310.470 Delegation to ESD of SPI program, project or service—Contract.
- 28A.310.480 Delegation to ESD of state board of education program, project or service—Contract.
- 28A.310.490 ESD employee attendance incentive program—Remuneration or benefit plan for unused sick leave.
- 28A.310.900 Repealed.

**28A.310.010 Purpose.** It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) Provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and

(3) Provide services to school districts and to the school for the deaf and the school for the blind to assure equal educational opportunities. [1988 c 65 § 1; 1977 ex.s. c 283 § 1; 1975 1st ex.s. c 275 § 1; 1971 ex.s. c 282 § 1; 1969 ex.s. c 176 § 1. Formerly RCW 28A.21.010, 28.19.500.]

**Severability—1977 ex.s. c 283:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 283 § 26.]

**Severability—1971 ex.s. c 282:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 282 § 45.]

**Rights preserved—1969 ex.s. c 176:** "The amendment or repeal of any section referred to herein shall not be construed as affecting any

existing right acquired under the provisions of the statutes amended or repealed nor any rule, regulation or order adopted pursuant thereto nor as affecting any proceeding as instituted thereunder." [1969 ex.s. c 176 § 160.]

**Severability—1969 ex.s. c 176:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 176 § 161.]

**28A.310.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties.** The state board of education upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, may make changes in the number and boundaries of the educational service districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.310.010: PROVIDED, That no reduction in the number of educational service districts will take effect without a majority approval vote by the affected school directors voting in such election by mail ballot. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: Size, population, topography, and climate of the proposed district.

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable educational service district boards and superintendents to consider the proposed changes. [1990 c 33 § 270; 1977 ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28A.21.020, 28.19.505.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.030 ESD board—Members—Number, from board-member districts—Board-member district boundaries, determination of, changes in.** Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member

shall serve on the board of the educational service district of residence and at the next election called by the secretary to the state board of education pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the secretary to the state board of education a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the secretary to the state board of education following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1 of the appropriate year, shall refer for settlement questions on board-member district boundaries to the state board of education, which, after a public hearing, shall decide such questions. [1990 c 33 § 271; 1977 ex.s. c 283 § 14; 1975 1st ex.s. c 275 § 3; 1974 ex.s. c 75 § 1; 1971 ex.s. c 282 § 3; 1969 ex.s. c 176 § 3. Formerly RCW 28A.21.030, 28.19.510.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1974 ex.s. c 75:** "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 75 § 24.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

*City, town, and district general elections—Exceptions—Special elections: RCW 29.13.020.*

*County auditor designated supervisor of certain elections: RCW 29.04.020.*

*Notice of election—Certification of measures: RCW 29.27.080.*

**28A.310.040 ESD board—Members—Terms.** The term of office for each board member shall be four years and until a successor is duly elected and qualified. For the first election or an election following reorganization, board-member district positions numbered one, three, five, and seven in each educational service district shall be for a term of four years and positions numbered two, four, and six shall be for a term of two years. [1975

1st ex.s. c 275 § 5; 1974 ex.s. c 75 § 4. Formerly RCW 28A.21.0303.]

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**28A.310.050 ESD board—Members—Terms, when nine member board.** Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the secretary to the state board of education, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years. [1977 ex.s. c 283 § 19; 1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5. Formerly RCW 28A.21.0304.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**28A.310.060 ESD board—Members—Terms, begin when—Vacancies, filling of.** The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the state board of education shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her successor has been elected at the next election called by the secretary to the state board of education and has qualified. [1977 ex.s. c 283 § 20; 1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6. Formerly RCW 28A.21.0305.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**28A.310.070 ESD board—Members—Restriction on other service.** No person shall serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time. [1975 1st ex.s. c 275 § 8; 1974 ex.s. c 75 § 7. Formerly RCW 28A.21.0306.]

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**28A.310.080 ESD board—Members—Elections, calling and notice of.** On or before the twenty-fifth day

of August, 1978, and not later than the twenty-fifth day of August of every subsequent year, the secretary to the state board of education shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions, rules, and regulations established by the state board of education for the conduct of the election. [1977 ex.s. c 283 § 15. Formerly RCW 28A.21.031.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**28A.310.090 ESD board—Members—Elections, filing of declarations of candidacy.** Candidates for membership on an educational service district board shall file declarations of candidacy with the secretary to the state board of education on forms prepared by the secretary. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The secretary to the state board of education may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September. [1977 ex.s. c 283 § 16. Formerly RCW 28A.21.032.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**28A.310.100 ESD board—Members—Elections, procedure—Certification of results.** Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the secretary to the state board of education and no votes shall be accepted for counting if postmarked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The secretary to the state board of education and an election board comprised of three persons appointed by the state board of education shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the secretary to the state board of education shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of votes at any such second election shall be

declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the secretary to the state board of education. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the secretary to the state board of education shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board. [1980 c 179 § 7; 1977 ex.s. c 283 § 17. Formerly RCW 28A.21.033.]

**Severability—1980 c 179:** See note following RCW 28A.305.010.

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.110 ESD board—Members—Elections, contest of.** Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to RCW 28A.305.070. [1990 c 33 § 272; 1977 ex.s. c 283 § 18. Formerly RCW 28A.21.034.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.120 ESD board—Return to seven member board.** Any educational service district board which elects under RCW 28A.310.050 to increase the size of the educational service district board from seven to nine members, after at least four years, may elect by resolution of the board to return to a membership of seven educational service board members. In such case, at the next election a new board consisting of seven educational service board members shall be elected in accordance with the provisions of this chapter. [1990 c 33 § 273; 1977 ex.s. c 283 § 21; 1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4. Formerly RCW 28A.21.035.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.130 ESD board—Vacation of board member position because of failure to attend meetings.** Absence of any educational service district board member from four consecutive regular meetings of the board, unless excused on account of sickness or otherwise authorized by resolution of the board, shall be sufficient cause for the members of the educational service district board to declare by resolution that such board member position is vacated. [1975 1st ex.s. c 275 § 10; 1971 ex.s. c 282 § 5. Formerly RCW 28A.21.037.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.140 School district to be entirely within single educational service district.** Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the state board shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section. [1990 c 33 § 274; 1975 1st ex.s. c 275 § 11; 1971 ex.s. c 282 § 6; 1969 ex.s. c 176 § 4. Formerly RCW 28A.21.040, 28.19.515.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.150 ESD board—Members, qualification, oath, bond—Organization—Quorum.** Every candidate for membership on an educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the state board of education. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chair and a vice chair. A majority of all of the members of the board shall constitute a quorum. [1990 c 33 § 275; 1977 ex.s. c 283 § 22; 1975 1st ex.s. c 275 § 12; 1971 ex.s. c 282 § 7; 1969 ex.s. c 176 § 5. Formerly RCW 28A.21.050, 28.19.520.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.160 ESD board—Reimbursement of members for expenses.** The actual expenses of educational service board members in going to, returning from and attending meetings called or held pursuant to district business or while otherwise engaged in the performance of their duties under this chapter shall be paid; all such claims shall be approved by the educational service district board and paid from the budget of the educational service district. [1977 ex.s. c 283 § 3; 1975-'76 2nd ex.s. c 34 § 68; 1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28A.21.060, 28.19.525.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**Severability**—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.310.170 ESD superintendent**—Appointment, procedure—Term, salary, discharge—ESD superintendent review committee. (1) Every educational service district board shall employ and set the salary of an educational service district superintendent who shall be employed by a written contract for a term to be fixed by the board, but not to exceed three years, and who may be discharged for sufficient cause.

(2) There is hereby established within each educational service district an educational service district superintendent review committee. Such review committee shall be composed of two school district superintendents from within the educational service district selected by the educational service district board and a representative of the state superintendent of public instruction selected by the state superintendent of public instruction.

(3) Prior to the employment by the educational service district board of a new educational service district superintendent, the review committee shall screen all applicants for the position and recommend to the board a list of three candidates. The educational service district board shall select the new superintendent from the list of three candidates or shall reject the entire list and request the review committee to submit three additional candidates, and the educational service district board shall repeat this process until a superintendent is selected. [1985 c 341 § 7; 1977 ex.s. c 283 § 4. Formerly RCW 28A.21.071.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**28A.310.180 ESD board**—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs including pupil transportation. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational

service district pursuant to RCW 28A.320.080(3): PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the school for the deaf and the school for the blind to provide transportation services. [1990 c 33 § 276; 1988 c 65 § 2; 1987 c 508 § 3; 1982 c 46 § 1; 1979 ex.s. c 66 § 1; 1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11. Formerly RCW 28A.21.086.]

**Severability**—1979 ex.s. c 66: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 66 § 3.]

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**28A.310.190 ESD board**—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.415.010 and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for handicapped children as provided in RCW 28A.155.010 through 28A.155.100.

(3) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.545 RCW.

(4) Perform such other duties as may be prescribed by law or rule or regulation of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.300.030 and 28A.305.210. [1990 c 33 § 277; 1983 c 56 § 2; 1981 c 103 § 2; 1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12. Formerly RCW 28A.21.088.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**28A.310.200 ESD board—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority.** In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the state board of education and the acquisition or alienation of all such property shall be subject to such provisions as the board may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender. The authority to borrow under this subsection shall be limited to educational service districts serving a minimum of two hundred thousand students in grades kindergarten through twelve.

(7) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(8) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts. [1990 c 159 § 1; 1990 c 33 § 278; 1988 c 65 § 3; 1983 c 56 § 3; 1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28A.21.090, 28.19.540.]

**Reviser's note:** This section was amended by 1990 c 33 § 278 and by 1990 c 159 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1983 c 56:** See note following RCW 28A.195.010.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—1971 c 53:** See note following RCW 28A.315.400.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.210 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions.** In addition to other powers and duties prescribed by law every educational service district board shall be authorized to:

(1) Pay the expenses of its members in accordance with law for attendance at state-wide meetings of educational service district board members.

(2) Pay dues from educational service district funds in an amount not to exceed one hundred dollars per board member per year for membership in a state-wide association of educational service district board members: **PROVIDED**, That dues to such an association shall not be paid unless the formation of such an association, including its constitution and bylaws, is approved by a resolution passed by at least two-thirds of the educational service district boards within the state: **PROVIDED FURTHER**, That such association if formed shall not employ any staff but shall contract either with the Washington state school directors' association or with the superintendent of public instruction for staff and informational services. [1975 1st ex.s. c 275 § 19; 1971 ex.s. c 282 § 14. Formerly RCW 28A.21.092.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.220 ESD board—Delegation of powers and duties to superintendent.** Each educational service district board, by written order filed in the headquarters office, may delegate to the educational service district superintendent any of the powers and duties vested in or imposed upon the board by law or rule or regulation of the state board of education and/or the superintendent of public instruction. Such delegated powers and duties shall not be in conflict with rules or regulations of the superintendent of public instruction or the state board of education and may be exercised by the educational service district superintendent in the name of the board. [1975 1st ex.s. c 275 § 20; 1974 ex.s. c 75 § 9; 1971 ex.s. c 282 § 15. Formerly RCW 28A.21.095.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.230 Assistant superintendents and other personnel—Appointment, salaries, duties.** The educational service district superintendent may appoint with the consent of the educational service district board assistant superintendents and such other professional personnel and clerical help as may be necessary to perform the work of the office at such salaries as may be determined by the educational service district board and shall pay such salaries out of the budget of the district. In the absence of the educational service district superintendent a designated assistant superintendent shall perform the duties of the office. The educational service district superintendent shall have the authority to appoint on an acting basis an assistant superintendent to perform any

of the duties of the office. [1975 1st ex.s. c 275 § 21; 1974 ex.s. c 75 § 10; 1971 ex.s. c 282 § 16; 1969 ex.s. c 176 § 10. Formerly RCW 28A.21.100, 28.19.545.]

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**Severability**—**Rights preserved**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

*Job sharing:* RCW 28A.405.070.

**28A.310.240 Employee leave policy required.** (1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement, and emergencies for both certificated and noncertificated employees, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the district as part-time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per fiscal year. Provisions of any contract in force on July 23, 1989, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW 28A.310.490, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, and the office of the superintendent of public instruction, and from any such district or office to another such district or office. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be

granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared valid and shall be added to such leave for illness or injury accumulated after July 23, 1989. [1990 c 33 § 279; 1989 c 208 § 1. Formerly RCW 28A.21.102.]

**28A.310.250 Certificated employees of district—Contracts of employment—Nonrenewal of contracts.** No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district. [1990 c 33 § 280; 1977 ex.s. c 283 § 7; 1975 1st ex.s. c 275 § 22; 1974 ex.s. c 75 § 11; 1971 c 48 § 6; 1969 ex.s. c 34 § 19. Formerly RCW 28A.21.105.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.310.260 Certificated employees of district—Adverse change in contract status—Notice—Probable cause—Review—Appeal.** Every educational service district superintendent or board determining that there is probable cause or causes for a certificated employee or superintendent, hereinafter referred to as employee, of that educational service district to be discharged or otherwise adversely affected in his or her contract status shall notify such employee in writing of its decision, which notice shall specify the cause or causes for such action. Such notice shall be served upon that employee personally, or by certified or registered

mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for review of the decision of the superintendent or board and appeal therefrom shall be as prescribed in discharge cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. The board and the educational service district superintendent, respectively, shall have the duties of the boards of directors and superintendents of school districts in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district. [1990 c 33 § 281; 1977 ex.s. c 283 § 8; 1975 1st ex.s. c 275 § 23; 1974 ex.s. c 75 § 12; 1971 c 48 § 7; 1969 ex.s. c 34 § 20. Formerly RCW 28A.21.106.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.310.270 ESD superintendent's powers and duties—Generally.** In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Serve as chief executive officer of the educational service district and secretary of the educational service district board.

(2) Visit the schools in the educational service district, counsel with directors and staff, and assist in every possible way to advance the educational interest in the educational service district. [1975 1st ex.s. c 275 § 24; 1974 ex.s. c 75 § 13; 1972 ex.s. c 3 § 1; 1971 ex.s. c 282 § 17; 1969 ex.s. c 176 § 11. Formerly RCW 28A.21.110, 28.19.550.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.280 ESD superintendent's powers and duties—Records and reports.** In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Perform such record keeping, including such annual reports as may be required, and liaison and informational services to local school districts and the superintendent of public instruction as required by rule or regulation of the superintendent of public instruction or state board of education: PROVIDED, That the superintendent of public instruction and the state board of education may require some or all of the school districts to report information directly when such reporting procedures are deemed desirable or feasible.

(2) Keep records of official acts of the educational service district board and superintendents in accordance with RCW 28A.21.120, as now or hereafter amended.

(3) Preserve carefully all reports of school officers and teachers and deliver to the successor of the office all records, books, documents, and papers belonging to the office either personally or through a personal representative, taking a receipt for the same, which shall be filed in the office of the county auditor in the county where the office is located. [1975 1st ex.s. c 275 § 25; 1974 ex.s. c 75 § 14. Formerly RCW 28A.21.111.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**28A.310.290 ESD superintendent's powers and duties—Oaths and affirmations.** In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Administer oaths and affirmations to school directors, teachers, and other persons on official matters connected with or relating to schools, when appropriate, but not make or collect any charge or fee for so doing.

(2) Require the oath of office of all school district officers be filed as provided in RCW 28A.315.500 and furnish a directory of all such officers to the county auditor and to the county treasurer of the county in which the school district is located as soon as such information can be obtained after the election or appointment of such officers is determined and their oaths placed on file. [1990 c 33 § 282; 1975 1st ex.s. c 275 § 26; 1974 ex.s. c 75 § 15. Formerly RCW 28A.21.112.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**28A.310.300 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization.** In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.315 RCW.

(5) Perform all other duties prescribed by law and the educational service district board. [1990 c 33 § 283; 1975 1st ex.s. c 275 § 27; 1974 ex.s. c 75 § 16. Formerly RCW 28A.21.113.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**28A.310.310 Headquarters office—Records transferred, state board duties.** The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of

county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.310.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district. [1990 c 33 § 284; 1985 c 341 § 8; 1975 1st ex.s. c 275 § 28; 1974 ex.s. c 75 § 17; 1971 ex.s. c 282 § 18; 1969 ex.s. c 176 § 12. Formerly RCW 28A.21.120, 28.19.555.]

**Severability—1974 ex.s. c 75:** See note following RCW 28A.310.030.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.320 ESD superintendents, employees—Travel expenses and subsistence—Advance payment.** For all actual and necessary travel in the performance of official duties and while in attendance upon meetings and conferences, each educational service district superintendent and employee shall be reimbursed for their travel expenses in the amounts provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. All claims shall be approved by the educational service district board and paid from the funds budgeted by the district. Each educational service district superintendent and employee may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210. [1975-'76 2nd ex.s. c 34 § 69; 1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28A.21.130, 28.19.560.]

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.330 Budgeting procedures for districts.** The superintendent of public instruction by rule and regulation shall adopt budgeting procedures for educational service districts modeled after the statutory procedures for school districts as provided in chapter 28A.505 RCW and in accordance with RCW 28A.310.340, 28A.310.350, and 28A.310.360. [1990 c 33 § 285; 1977 ex.s. c 283 § 12; 1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20. Formerly RCW 28A.21.135.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.340 Identification of core services for budget purposes—Generally.** It is the intent of the legislature that a basic core of uniform services be provided by educational service districts and be identified in statute so that biennial budget requests for educational service districts may be based upon measurable goals and needs. Educational service districts as noted in RCW 28A.310.010, are intended primarily to:

(1) Provide cooperative and informational services to local districts and to perform functions for those districts when such functions are more effectively or economically administered from the regional level;

(2) Assist the state educational agencies, office of superintendent of public instruction and the state board of education in the legal performance of their duties; and

(3) Assist in providing pupils with equal educational opportunities.

The purpose of RCW 28A.310.350 and 28A.310.360 is to further identify those core services in order to prepare educational service district budgets for the 1979–81 biennium, and those bienniums beyond. [1990 c 33 § 286; 1977 ex.s. c 283 § 9. Formerly RCW 28A.21.136.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.350 Identification of core services for budget purposes—Specific services listed.** The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; and

(6) Special needs of local education agencies. [1977 ex.s. c 283 § 10. Formerly RCW 28A.21.137.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.360 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request.** The superintendent of public instruction, pursuant to RCW 28A.310.330 shall prepare the biennial budget request for the operation of educational service districts based upon a formula using the following factors:

(1) The core service cost itemized in RCW 28A.310.350 which shall receive primary weighting for formula purposes;

(2) A weighting factor constituting a geographical factor which shall be used to weight the larger sized educational service districts for formula purposes; and

(3) A weighting factor which shall be based on the number and size of local school districts within each educational service district for formula purposes.

The sum of subsection (1) of this section, together with the weighting factors of subsections (2) and (3) of this section for each educational service district, shall reflect the variables among the educational service districts and when combined, a total budget for all educational service districts shall be the result. [1990 c 33 § 287; 1977 ex.s. c 283 § 11. Formerly RCW 28A.21.138.]

**Severability**—1977 ex.s. c 283: See note following RCW 28A.310.010.

**28A.310.370 District budget—State funds, allocation of—District general expense fund—Created, deposits, expenditures.** The superintendent of public instruction shall examine and revise the biennial budget request of each educational service district and shall fix the amount to be requested in state funds for the educational service district system from the legislature. Once funds have been appropriated by the legislature, the superintendent of public instruction shall fix the annual budget of each educational service district and shall allocate quarterly the state's portion from funds appropriated for that purpose to the county treasurer of the headquarters county of the educational service district for deposit to the credit of the educational service district general expense fund.

In each educational service district, there shall be an educational service district general expense fund into which there shall be deposited such moneys as are allocated by the superintendent of public instruction under provisions of this chapter and other funds of the educational service district, and such moneys shall be expended according to the method used by first or second class school districts, whichever is deemed most feasible by the educational service district board. No vouchers for warrants other than moneys being distributed to the school districts shall be approved for expenditures not budgeted by the educational service district board. [1983 c 56 § 4; 1975 1st ex.s. c 275 § 31; 1971 ex.s. c 282 § 22; 1969 ex.s. c 176 § 14. Formerly RCW 28A.21.140, 28.19.565.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**Severability**—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.310.380 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries.** All funds under the control of the office of each educational service district shall be combined into the educational service district general expense fund and deposited in the office of the county treasurer of the county in which the educational service

district headquarters office is located. The superintendent of public instruction, by rule or regulation, shall provide by an established formula for the proper distribution of moneys received from the county current expense fund, the county institute fund, and the county circulating library fund in those counties which are a part of two or more educational service districts. In case the boundaries of any of the educational service districts are changed, the superintendent of public instruction shall order an equitable transfer of such funds from one educational service district to another which the superintendent of public instruction deems necessary to adjust for the increase and decrease in the operating costs of the respective districts for the balance of the fiscal year and shall certify to the county commissioners of the affected counties a new ratio for the appropriation of funds to the general expense funds of two or more educational service districts under \*RCW 28A.21.180, as now or hereafter amended. [1975 1st ex.s. c 275 § 32; 1971 ex.s. c 282 § 23; 1969 ex.s. c 176 § 16. Formerly RCW 28A.21.160, 28.19.575.]

\*Reviser's note: RCW 28A.21.180 was repealed by 1983 c 56 § 16.

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**Severability**—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.310.390 District budget request—Procedure for approval.** The biennial budget request of each educational service district shall be approved by the respective educational service district board and then forwarded to the superintendent of public instruction for revision and approval as provided in RCW 28A.310.370. [1990 c 33 § 288; 1975 1st ex.s. c 275 § 33; 1971 ex.s. c 282 § 21; 1969 ex.s. c 176 § 17. Formerly RCW 28A.21.170, 28.19.580.]

**Severability**—1971 ex.s. c 282: See note following RCW 28A.310.010.

**Severability**—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.310.400 Legal services.** The superintendent of public instruction shall be responsible for the provision of legal services to all educational service districts: PROVIDED, That any educational service district board may contract with any county for the legal services of its prosecuting attorney. [1975 1st ex.s. c 275 § 35; 1974 ex.s. c 75 § 23. Formerly RCW 28A.21.195.]

**Severability**—1974 ex.s. c 75: See note following RCW 28A.310.030.

**28A.310.410 Ex officio treasurer of district.** The county treasurer of the county in which the headquarters office of the educational service district is located shall serve as the ex officio treasurer of the district. The treasurer shall keep all funds and moneys of the district separate and apart from all other funds and moneys in the treasurer's custody and shall disburse such moneys only upon proper order of the educational service district board or superintendent. [1990 c 33 § 289; 1975 1st ex.s.

c 275 § 36; 1969 ex.s. c 176 § 21. Formerly RCW 28A-.21.200, 28.19.595.]

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.420 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained.** As of July 1, 1969, employees of the various offices of county or intermediate district superintendent and county or intermediate district board shall terminate their employment therein, or such employees, at their election, may transfer their employment to the new intermediate school district in which their respective county is located. If such employment is so transferred, each employee shall retain the same leave benefits and other benefits that he or she had in his or her previous position. If the intermediate school district has a different system of computing leave benefits and other benefits, then the employee shall be granted the same leave and other benefits as a person will receive who would have had similar occupational status and total years of service with the new intermediate school district. [1990 c 33 § 290; 1969 ex.s. c 176 § 22. Formerly RCW 28A.21.210, 28.19.600.]

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.430 Local school district superintendents to advise board and superintendent.** The superintendents of all local school districts within an educational service district shall serve in an advisory capacity to the educational service district board and superintendent in matters pertaining to budgets, programs, policy, and staff. [1975 1st ex.s. c 275 § 37; 1971 ex.s. c 282 § 28; 1969 ex.s. c 176 § 23. Formerly RCW 28A.21.220, 28.19.605.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Severability—Rights preserved—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.310.440 ESD as self-insurer—Authority.** The board of directors of any educational service district is authorized to enter into agreements with the board of directors of any local school district and/or other educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 9. Formerly RCW 28A.21.255.]

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

*Educational service districts as self-insurers: RCW 51.14.150 and 51.14.160.*

**28A.310.450 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.310.460 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.** The board of

any educational service district may enter into contracts for their respective districts for periods not exceeding twenty years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.310.330 and 28A.505.140. [1990 c 33 § 291; 1987 c 508 § 2; 1977 ex.s. c 210 § 2. Formerly RCW 28A.21.310.]

**Severability—1977 ex.s. c 210:** See note following RCW 28A.335.170.

**28A.310.470 Delegation to ESD of SPI program, project or service—Contract.** The superintendent of public instruction may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the superintendent of public instruction: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended. [1977 ex.s. c 283 § 5. Formerly RCW 28A.21.350.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.480 Delegation to ESD of state board of education program, project or service—Contract.** The state board of education may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the state board of education: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended. [1977 ex.s. c 283 § 6. Formerly RCW 28A.21.355.]

**Severability—1977 ex.s. c 283:** See note following RCW 28A.310.010.

**28A.310.490 ESD employee attendance incentive program—Remuneration or benefit plan for unused sick leave.** Every educational service district board of directors shall establish an attendance incentive program for all certificated and noncertificated employees in the following manner.

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess

of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) At the time of separation from educational service district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided for in subsections (1) and (2) of this section, an educational service district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1991 c 92 § 1; 1989 c 69 § 1; 1985 c 341 § 9; 1980 c 182 § 6. Formerly RCW 28A.21.360.]

**Severability—1980 c 182:** See note following RCW 41.04.340.

**28A.310.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 28A.315**

**ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS**

**Sections**

- 28A.315.010 Purpose.
- 28A.315.020 Definitions.
- 28A.315.030 County committee members to act as temporary regional committee members—Election of initial regional committee.
- 28A.315.040 Regional committees—Created.
- 28A.315.050 Regional committees—Membership limitation.
- 28A.315.060 Regional committees—Election of members—Qualifications.
- 28A.315.070 Regional committees—Vacancies, filling of.

- 28A.315.080 Regional committees—Terms of members.
- 28A.315.090 Regional committees—Members' expenses reimbursed.
- 28A.315.100 Regional committees—Organization, meetings, quorum.
- 28A.315.110 Regional committees—Powers and duties.
- 28A.315.120 Regional committees—Recommendations—Standards.
- 28A.315.130 Changing conflicting or incorrectly described school district boundaries.
- 28A.315.140 Powers and duties of state board, generally.
- 28A.315.150 Action upon board's report.
- 28A.315.160 Adjustment of bonded indebtedness—Special election in certain cases.
- 28A.315.170 Notice of election—Contents.
- 28A.315.180 Vote, how determined—ESD superintendent's order—Certification—Effective date.
- 28A.315.190 Procedure upon rejection of proposal.
- 28A.315.200 Personnel and supplies to be furnished by state superintendent—Expenses reimbursed.
- 28A.315.210 Appeal.
- 28A.315.220 Organization of school districts.
- 28A.315.230 Classes of districts—Change of classification.
- 28A.315.240 Classes of districts—Change of classification—Delay of authorized.
- 28A.315.250 City or town districts.
- 28A.315.260 Reorganization of districts by transfer of territory or annexation.
- 28A.315.270 Petition for reorganization—Conditions.
- 28A.315.280 Transfer of territory—By petition—By ESD superintendent—When election required.
- 28A.315.290 Annexation of district bounded on three sides by high school district.
- 28A.315.300 Single school district for certain United States military reservations—Mandated.
- 28A.315.310 Single school district for certain United States military reservations—Procedure—Limitations.
- 28A.315.320 Dissolution and annexation of certain districts—Annexation of nondistrict property.
- 28A.315.330 Adjustment of indebtedness—Basis.
- 28A.315.340 Corporate existence retained to pay bonded indebtedness—Tax levies—Joint school districts.
- 28A.315.350 Joint school districts—Defined—Designation.
- 28A.315.360 School districts in two or more educational service districts—Change or adjustment of districts—Procedure generally.
- 28A.315.370 School districts in two or more educational service districts—Proposed change or adjustment—Procedure when one committee does not approve, or fails to act—Temporary committee.
- 28A.315.380 Joint school districts—Administration—County to which joint school district considered as belonging.
- 28A.315.390 Joint school districts—Special rules for electors voting for directors.
- 28A.315.400 Joint school districts—Directors—Vacancies.
- 28A.315.410 Joint school districts—Powers and duties.
- 28A.315.420 Joint school districts—Assessed valuation of district property to be certified.
- 28A.315.430 Joint school districts—Levy of tax—Ratio.
- 28A.315.440 Joint school districts—Levy of tax—Remittance of collections to district treasurer.
- 28A.315.450 Directors—Elections—Terms—Number.
- 28A.315.460 Directors—First class districts having city with population of 400,000 people or more—Terms.
- 28A.315.470 Directors—Declarations of candidacy—Designation of positions. (Effective until July 1, 1992.)
- 28A.315.470 Directors—Declarations of candidacy—Positions as separate offices. (Effective July 1, 1992.)
- 28A.315.480 Directors—Ballots—Form.
- 28A.315.490 Directors—Elected when—Qualifications.
- 28A.315.500 Directors—Oath of office.
- 28A.315.510 Directors—Meetings.
- 28A.315.520 Directors—Quorum—Failure to attend meetings may result in vacation of office.
- 28A.315.530 Directors—Filling vacancies.
- 28A.315.540 Directors—Compensation—Waiver.

- 28A.315.550 Directors—Number and terms of in new second class districts.
- 28A.315.560 Directors—Candidates in undivided districts to indicate term sought—How elected.
- 28A.315.570 Directors—Terms in certain first class districts to be staggered.
- 28A.315.580 Directors' districts in certain school districts—Submission of proposition at formation election.
- 28A.315.590 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts.
- 28A.315.593 Division or redivision of district into director districts.
- 28A.315.597 District boundary changes—Submission to county auditor.
- 28A.315.600 Directors—Number and terms of in first class districts containing no former first class district.
- 28A.315.610 Directors—Number and terms of in first class districts containing only one former first class district.
- 28A.315.620 Directors—Number and terms of in first class districts containing more than one former first class district.
- 28A.315.630 Directors—Number and terms of in new first class district having city with population of 400,000 people or more.
- 28A.315.640 Directors—Map and record of directors' districts.
- 28A.315.650 Directors—Terms specified for directors in divided districts whose terms are not the same.
- 28A.315.660 Directors—Dissolution of directors' districts.
- 28A.315.670 Directors' districts in first class districts having city with population of 400,000 people in class AA counties—Boundaries—Director candidate eligibility—Declaration of candidacy—Primary limited to voters within district—When no primary—Terms of directors. (Effective until July 1, 1992.)
- 28A.315.670 Directors' districts in first class districts having city with population of 400,000 people or more—Boundaries—Director candidate eligibility—Declaration of candidacy—Primary limited to voters within district—Terms of directors. (Effective July 1, 1992.)
- 28A.315.680 Directors' districts in first class districts having city with population of 400,000 people in class AA counties—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers. (Effective until July 1, 1992.)
- 28A.315.680 Directors' districts in first class districts having city with population of 400,000 people or more—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers. (Effective July 1, 1992.)
- 28A.315.685 Repealed.
- 28A.315.690 Change of district name—Authorized—Petition for.
- 28A.315.700 Change of district name—Public hearing on—Notice of—Hearing may include additional petitions.
- 28A.315.710 Change of district name—Board selection of name for voter approval.
- 28A.315.720 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions.
- 28A.315.900 Proceedings as of July 28, 1985—Effect of 1985 c 385.

**28A.315.010 Purpose.** It is the intent and purpose of this chapter (1) to incorporate into a single, permanent, school district organization law all essential provisions governing the formation and establishment of new school districts, the alteration of the boundaries of existing districts, and the adjustment of the assets and liabilities of school districts when changes are made as aforesaid; and (2) to establish methods and procedures whereby the aforesaid changes in the school district system may be brought about by the people concerned and affected, all

to the end that the territorial organization of school districts may be more readily adapted to the needs of the changing economic pattern and educational program in the state; that existing disparities among school districts in ability to provide current and capital outlay funds may be reduced and the educational opportunities of children thereby enhanced; and that a wiser use of public funds may be secured through improvement in the school district system. It is not the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by non-high districts as provided for in chapter 28A.540 RCW. [1990 c 33 § 292; 1969 ex.s. c 223 § 28A.57.010. Prior: 1947 c 266 § 1; Rem. Supp. 1947 § 4693-20; prior: 1941 c 248 § 1; Rem. Supp. 1941 § 4709-1. Formerly RCW 28A.57.010, 28.57.010.]

**28A.315.020 Definitions.** As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "State board" means the state board of education.

(4) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(5) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee. [1990 c 33 § 293; 1985 c 385 § 1; 1983 c 3 § 33; 1975 1st ex.s. c 275 § 78; 1971 c 48 § 25; 1969 ex.s. c 223 § 28A.57.020. Prior: 1955 c 395 § 1; 1947 c 266 § 2; Rem. Supp. 1947 § 4693-21. Formerly RCW 28A.57.020, 28.57.020.]

**Severability—1985 c 385:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 385 § 41.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.315.030 County committee members to act as temporary regional committee members—Election of initial regional committee.** Notwithstanding any other provision of this chapter to the contrary, those persons who were county committee members and registered to vote as of July 28, 1985, shall constitute the regional committee of the educational service district within which they are registered to vote until the election of the initial regional committee pursuant to this section. The initial election of members of each regional committee shall be by those persons who were county committee members registered to vote within the educational service district as of July 28, 1985. Only persons who were county committee members and so registered to vote as of July 28, 1985, shall be eligible for membership on an initial regional committee, and only those persons who are eligible for such membership and are in attendance

at a meeting held for the purpose of the election shall be entitled to cast a vote. The meeting shall be held at a time and place designated and announced by the educational service district superintendent, but no later than the thirtieth day after July 28, 1985. The educational service district superintendent shall preside over the meeting. Nominations shall be from the floor and shall be for position numbers assigned by the educational service district superintendent for the purpose of the initial election and all subsequent elections held pursuant to RCW 28A.315.060. Members of each initial regional committee shall be elected by majority vote and shall serve for the staggered terms of office set forth in RCW 28A.315.060 and until their successors are certified as elected pursuant to RCW 28A.315.060. [1990 c 33 § 294; 1985 c 385 § 30. Formerly 28A.57.029.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.315.040 Regional committees—Created.** There is hereby created in each educational service district a committee which shall be known as the regional committee on school district organization, which committee shall be composed of not less than seven nor more than nine registered voters of the educational service district, the number to correspond with the number of board member districts established for the governance of the educational service district in which the regional committee is located. One member of the regional committee shall be elected from the registered voters of each such educational service district board member district. [1985 c 385 § 2; 1969 ex.s. c 223 § 28A.57.030. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.030, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.315.050 Regional committees—Membership limitation.** Persons possessing the status of any of the following positions shall not be eligible to be a member of a regional committee: The superintendent of public instruction, a member of the state board of education, an educational service district superintendent, a member of a board of directors of a school district, a member of an educational service district board, a member of a governing board of either a private school or a private school district which conducts any grades kindergarten through twelve, officers appointed by any such governing board, and employees of a school district, an educational service district, the office of the superintendent of public instruction, a private school, or a private school district. [1985 c 385 § 3; 1975 1st ex.s. c 275 § 79; 1969 ex.s. c 176 § 115; 1969 ex.s. c 223 § 28A.57.031. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.031, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved—Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.060 Regional committees—Election of members—Qualifications.** The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1986, and not later than the 25th day of September of every subsequent year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules and regulations established by the state board of education for the conduct of the election. The state board of education is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the state board deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at

the next annual election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee. [1990 c 33 § 295; 1985 c 385 § 4; 1975-'76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032; prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.032, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.070 Regional committees—Vacancies, filling of.** In case of a vacancy from any cause on a regional committee, the remaining members of the committee shall fill such vacancy by appointment pursuant to a majority vote of the remaining members: **PROVIDED**, That should there exist fewer members on a regional committee than constitutes a majority of the legally established committee member positions, the educational service district board members of the district in which the committee is located, by the vote of a majority of the members in its legally established number of board member positions, shall appoint a sufficient number of committee members to constitute a legal majority on the committee. Appointees to fill vacancies shall meet the requirements provided by law for committee members and shall serve until the next regular election for members of regional committees at which time a successor shall be elected for the balance of the unexpired term. [1985 c 385 § 5; 1975 1st ex.s. c 275 § 81; 1969 ex.s. c 176 § 117; 1969 ex.s. c 223 § 28A.57.033. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.033, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.080 Regional committees—Terms of members.** The terms of members of the regional committees shall be for five years and until their successors are elected. As nearly as possible one-fifth of the members shall be elected annually. For the initial election conducted pursuant to RCW 28A.315.030 and the election of a new regional committee following a change in

the number of educational service districts or board members, regional committee member positions one and six shall be for a term of five years, positions two and seven shall be for a term of four years, positions three and eight shall be for a term of three years, positions four and nine shall be for a term of two years, and position five shall be for a term of one year. [1990 c 33 § 296; 1985 c 385 § 6; 1969 ex.s. c 223 § 28A.57.034. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.034, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.315.090 Regional committees—Members' expenses reimbursed.** Members of each regional committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. [1985 c 385 § 7; 1969 ex.s. c 176 § 118; 1969 ex.s. c 223 § 28A.57.035. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.035, 28.57.030, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.100 Regional committees—Organization, meetings, quorum.** Each regional committee shall organize by electing from its membership a chair and a vice chair. The educational service district superintendent shall be the secretary of the committee. Meetings of the committee shall be held upon call of the chair or of a majority of the members thereof. A majority of the committee shall constitute a quorum. [1990 c 33 § 297; 1985 c 385 § 8; 1975 1st ex.s. c 275 § 82; 1969 ex.s. c 176 § 119; 1969 ex.s. c 223 § 28A.57.040. Prior: 1947 c 266 § 12; Rem. Supp. 1947 § 4693-31; prior: 1941 c 248 § 4; Rem. Supp. 1941 § 4709-4. Formerly RCW 28A.57.040, 28.57.040.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.110 Regional committees—Powers and duties.** The powers and duties of each regional committee shall be:

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

districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new school district or of each existing school district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the then county committee found, after considering the factors listed in RCW 28A.315.120, that no changes in the school district organization of the county were needed, the report to this effect submitted to the state board.

(2)(a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district; and (d) to provide that territory transferred to a school district by a change in the organization and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district; and (e) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the regional committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each school district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any school district was incurred; the value, location, and disposition of all improvements located in the school districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.315.290 or

28A.315.320 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities. [1991 c 288 § 2. Prior: 1990 c 161 § 2; 1990 c 33 § 298; 1987 c 100 § 1; 1985 c 385 § 9; 1985 c 6 § 1; 1975-'76 2nd ex.s. c 15 § 2; prior: 1975 1st ex.s. c 275 § 83; 1975 c 43 § 4; 1969 ex.s. c 176 § 120; 1969 ex.s. c 223 § 28A.57.050; prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28A.57.050, 28.57.050, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

*Department of community development: Chapter 43.63A RCW.*

**28A.315.120 Regional committees—Recommendations—Standards.** Each regional committee, in carrying out the purposes of RCW 28A.315.110, shall base its judgment and recommendations, if any, to the state board of education, upon such standards and considerations as are established by the state board of education pursuant to chapter 34.05 RCW for the preparation of recommended changes in the organization and extent of school districts and terms of adjustment as provided for in RCW 28A.315.110. Such rules and regulations shall provide for giving consideration: (1) To equalization of the educational opportunities of pupils and to economies in the administration and operation of schools through the formation of larger units of administration and areas of attendance; (2) to equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per-pupil valuation; (3) to geographical and other features, including, but not limited to such physical characteristics as mountains, lakes and rivers, waste land, climatic conditions, highways, and means of transportation; (4) to the convenience and welfare of pupils, including but not limited to

remoteness or isolation of their places of residence and time required to travel to and from school; (5) to improvement of the educational opportunities of pupils through improvement and extension of school programs and through better instruction facilities, equipment, materials, libraries, and health and other services; (6) to equalization of the burden of financing the cost of high school facilities through extension of the boundaries of high school districts to include within each such district all of the territory served by the high school located therein: PROVIDED, That a nonhigh school district may be excluded from a plan if such district is found by the regional committee and the state board to be so situated with respect to location, present and clearly foreseeable future population, and other pertinent factors as to warrant the establishment and operation of a high school therein or the inclusion of its territory in a new district formed for the purpose of establishing and operating a high school; (7) to the future effective utilization of existing satisfactory school buildings, sites, and playfields; the adequacy of such facilities located in the proposed new district; and additional facilities required if such proposed district is formed; and (8) to any other matters which in the judgment of the state board of education are related to or may operate to further equalization and improvement of school facilities and services, economies in operating and capital fund expenditures, and equalization among school districts of tax rates for school purposes. [1990 c 33 § 299; 1985 c 385 § 10; 1969 ex.s. c 223 § 28A.57.055. Prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28A.57.055, 28.57.050, part.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.315.130 Changing conflicting or incorrectly described school district boundaries.** In case the boundaries of any of the school districts are conflicting or incorrectly described, the regional committee on school organization after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the state board of education for its approval or revision. Upon receipt of notification of state board of education action, the regional committee on school organization shall transmit to the county commissioners of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected. [1985 c 385 § 11; 1971 ex.s. c 282 § 26. Formerly RCW 28A.57.057.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.315.140 Powers and duties of state board, generally.** The powers and duties of the state board with respect to this chapter shall be:

(1) To aid regional committees in the performance of their duties by furnishing them with plans of procedure,

standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts.

(2) To receive, file, and examine the proposals and the maps, reports, records, and other materials relating thereto submitted by regional committees and to approve such proposals and so notify the regional committees when said proposals are found to provide for satisfactory improvement in the school district system of the counties and the state and for an equitable adjustment of the assets and liabilities, including bonded indebtedness and excess tax levies as authorized under RCW 28A.315.110(2), of the school districts involved or affected: PROVIDED, That whenever the state board approves a recommendation from a regional committee for the transfer of territory from one school district to another school district, such state board approval must be made not later than March 1 of any given year for implementation the school year immediately following: PROVIDED FURTHER, That whenever such proposals are found by the state board to be unsatisfactory or inequitable, the board shall so notify the regional committee and, upon request, assist the committee in making revisions which revisions shall be resubmitted within sixty days after such notification for reconsideration and approval or disapproval. Implementation of state board-approved transfers of territory from one school district to another school district shall become effective at the commencement of the next school year unless an earlier implementation is agreed upon in writing by the boards of directors of the affected school districts. [1990 c 33 § 300; 1987 c 100 § 2; 1985 c 385 § 12; 1969 ex.s. c 223 § 28A.57.060. Prior: 1955 c 395 § 3; 1947 c 266 § 14; Rem. Supp. 1947 § 4693-33; prior: 1941 c 248 § 8; Rem. Supp. 1941 § 4709-8. Formerly RCW 28A.57.060, 28.57.060.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.315.150 Action upon board's report.** Upon receipt by a regional committee of such notice from the state board as is required in RCW 28A.315.140(2), the educational service district superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of an established school district or districts and all approved terms of adjustment of assets and liabilities involving an established district or districts the boundaries of which have been or are hereafter altered in the manner provided by law, and shall certify his or her action to each county auditor for the board of county commissioners, each county treasurer, each county assessor and the superintendents of all school districts affected by such action. Upon receipt of such certification the superintendent of each school district which is annexed to another district by the action shall deliver to the superintendent of the school district to which annexed all books, papers, documents, records, and other materials pertaining to his or her office. [1990 c 33 § 301; 1985 c 385 § 13; 1975 1st ex.s. c 275 § 84; 1969 ex.s. c 176 § 121; 1969 ex.s. c 223 § 28A.57.070. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c

87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28A.57.070, 28.57.070, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.160 Adjustment of bonded indebtedness**—**Special election in certain cases.** Whenever adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries thereof, pursuant to the provisions of this chapter, the order of the educational service district superintendent establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district (a) that such bonded indebtedness is assumed by the school district to which it is transferred; (b) that thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred; (c) that, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and (d) that taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, said taxes to be levied at the times and in the amounts required to pay the principal of and the interest on the bonded indebtedness assumed or incurred as aforesaid, as the same become due and payable.

In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of such transferred bonded indebtedness at any time outstanding (a) shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which such bonded indebtedness was transferred and (b) shall be deemed to be bonded indebtedness solely of the transferee school district that assumed such indebtedness.

(2) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district (a) that the existing bonded indebtedness of each school district the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of the school district in its reduced or enlarged form, as the case may be; and (b) that taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

If a change in school district organization approved by the state board concerns a proposal to form a new school

district or a proposal for adjustment of bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special election of the voters residing within the territory of the proposed new district or of the established district involved in a proposal for adjustment of bonded indebtedness as the case may be shall be held for the purpose of affording said voters an opportunity to approve or reject such proposals as concern or affect them.

In a case involving both the question of the formation of a new school district and the question of adjustment of bonded indebtedness, the questions may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever to the educational service district superintendent seems expedient. When the regional committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor such special election shall be called, conducted, and the returns canvassed as in regular school district elections. [1985 c 385 § 14; 1975 1st ex.s. c 275 § 85; 1969 ex.s. c 176 § 122; 1969 ex.s. c 223 § 28A.57.075. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28A.57.075, 28.57.070, part.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.170 Notice of election**—**Contents.** Notice of such special elections as provided for in RCW 28A.315.160 shall be given by the county auditor as in RCW 29.27.080 provided. The notice of election shall state the purpose for which the election has been called and shall contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness to be voted on. [1990 c 33 § 302; 1985 c 385 § 15; 1975 1st ex.s. c 275 § 86; 1971 c 48 § 26; 1969 ex.s. c 223 § 28A.57.080. Prior: 1947 c 266 § 20; Rem. Supp. 1947 § 4693-39. Formerly RCW 28A.57.080, 28.57.080.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Severability**—1971 ex.s. c 48: See note following RCW 28A.305.040.

**28A.315.180 Vote, how determined**—**ESD superintendent's order**—**Certification**—**Effective date.** Whenever a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately and any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon. Whenever a special election is held to vote on a proposal for adjustment of bonded indebtedness the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated and any such proposition shall be

considered approved if sixty percent or more of all votes cast thereon are in the affirmative.

In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall: (1) Make an order establishing such new school district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order effected such other terms of adjustment, if there be any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state board; and (2) certify his or her action to the county and school district officials specified in RCW 28A.315.150. He or she may designate, with the approval of the superintendent of public instruction, a name and number different from that of any component thereof but must designate the new district by name and number different from any other district in existence in the county.

The educational service district superintendent shall fix, as the effective date of any order or orders he or she is required by this chapter to make, a date no later than the first day of September next succeeding the date of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts subject, for taxing purposes, to the redrawing of taxing district boundaries pursuant to RCW 84.09.030.

Upon receipt of the aforesaid certification, the superintendent of each school district which is included in the new district shall deliver to the superintendent of the new school district all books, papers, documents, records and other materials pertaining to his or her office. [1990 c 33 § 303; 1985 c 385 § 16; 1975 1st ex.s. c 275 § 87; 1969 ex.s. c 176 § 123; 1969 ex.s. c 223 § 28A.57.090. Prior: 1957 c 296 § 1; 1955 c 395 § 5; 1947 c 266 § 21; Rem. Supp. 1947 § 4693-40. Formerly RCW 28A.57.090, 28.57.090.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.190 Procedure upon rejection of proposal.** If a proposal for the formation of a new school district and for adjustment of bonded indebtedness, or either, is rejected by the registered voters at a special election, the regional committee may make such revisions therein as it deems advisable and submit the revised proposal or proposals to the state board. Thereafter such revised proposal or proposals shall be subject to the provisions and procedural requirements of this chapter applicable to original proposals submitted to said board. [1985 c 385 § 17; 1969 ex.s. c 223 § 28A.57.100. Prior: 1947 c 266 § 22; Rem. Supp. 1947 § 4693-41. Formerly RCW 28A.57.100, 28.57.100.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.315.200 Personnel and supplies to be furnished by state superintendent—Expenses reimbursed.** The superintendent of public instruction shall furnish to the state board and to regional committees the services of

employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for regional committee members to be in accordance with RCW 28A.315.090, and such reimbursement for state board members to be in accordance with RCW 28A.305.120. [1990 c 33 § 304; 1985 c 385 § 18; 1969 ex.s. c 223 § 28A.57.110. Prior: 1947 c 266 § 39; Rem. Supp. 1947 § 4693-58. Formerly RCW 28A.57.110, 28.57.110.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.315.210 Appeal.** An appeal may be taken, as provided for in RCW 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable. [1990 c 33 § 305; 1983 c 3 § 34; 1969 ex.s. c 223 § 28A.57.120. Prior: 1947 c 266 § 40; Rem. Supp. 1947 § 4693-59. Formerly RCW 28A.57.120, 28.57.120.]

*Boundary change, copy of decision to county assessor: RCW 28A.645.040.*

**28A.315.220 Organization of school districts.** A school district shall be organized in form and manner as hereinafter in this chapter provided, and shall be known as ----- (insert here the name of the district) School District No. -----, ----- county, state of Washington: PROVIDED, That all school districts now existing as shown by the records of the educational service district superintendent are hereby recognized as legally organized districts: PROVIDED FURTHER, That all school districts existing on April 25, 1969 as shown by the records of the county or intermediate district superintendents are hereby recognized as legally organized districts. [1975 1st ex.s. c 275 § 88; 1969 ex.s. c 176 § 124; 1969 ex.s. c 223 § 28A.57.130. Prior: 1947 c 266 § 3; Rem. Supp. 1947 § 4693-22. Formerly RCW 28A.57.130, 28.57.130.]

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.230 Classes of districts—Change of classification.** Any school district in the state having a student enrollment within the public schools of such district of two thousand pupils or more, as shown by evidence acceptable to the educational service district superintendent and the superintendent of public instruction, shall be a school district of the first class. Any other school district shall be a school district of the second class.

Whenever the educational service district superintendent finds that the classification of a school district should be changed, and upon the approval of the superintendent of public instruction, he or she shall make an order in conformity with his or her findings and alter the

records of his or her office accordingly. Thereafter the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which said district then belongs. [1991 c 116 § 25; 1990 c 33 § 306; 1975-'76 2nd ex.s. c 15 § 3. Prior: 1975 1st ex.s. c 275 § 89; 1975 c 43 § 1; 1969 ex.s. c 176 § 125; 1969 ex.s. c 223 § 28A.57.140; prior: 1947 c 266 § 9; Rem. Supp. 1947 § 4693-28; prior: 1909 p 264 §§ 2, 3, 4; RRS §§ 4695, 4696, 4697. Formerly RCW 28A.57.140, 28.57.140.]

**Effective date**—1975 c 43: "The effective date of this amendatory act shall be July 1, 1975." [1975 c 43 § 37.]

**Severability**—1975 c 43: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 c 43 § 38.]

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.240 Classes of districts**—**Change of classification**—**Delay of authorized.** Notwithstanding any other provision of chapter 43, Laws of 1975, the \*educational service district superintendent, with the concurrence of the superintendent of public instruction, may delay approval of a change in classification of any school district for a period not exceeding three years when, in fact, the student enrollment of the district within any such time period does not exceed ten percent, either in a decrease or increase thereof. [1975 c 43 § 35. Formerly RCW 28A.57.145.]

\***Reviser's note:** "Educational service district superintendent" has been substituted for "intermediate school district superintendent" pursuant to RCW 28A.310.010 and 28A.310.900.

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**28A.315.250 City or town districts.** Each incorporated city or town in the state shall be comprised in one school district: **PROVIDED,** That nothing in this section shall be construed: (1) To prevent the extension of the boundaries of a school district beyond the limits of the city or town contained therein, or (2) to prevent the inclusion of two or more incorporated cities or towns in a single school district, or (3) to change or disturb the boundaries of any school district organized prior to the incorporation of any city or town, except as hereafter in this section provided.

In case all or any part of a school district that operates a school or schools on one site only or operates elementary schools only on two or more sites is included in an incorporated city or town through the extension of the limits of such city or town in the manner provided by law, the educational service district superintendent shall: (1) Declare the territory so included to be a part of the school district containing the city or town and (2) whenever a part of a district so included contains a school building of the district, present to the regional committee a proposal for the disposition of any part or all of the remaining territory of the district.

In case of the extension of the limits of a town to include territory lying in a school district that operates on more than one site one or more elementary schools and

one or more junior high schools or high schools, the regional committee shall, in its discretion, prepare a proposal or proposals for annexation to the school district in which the town is located any part or all of the territory aforesaid which has been included in the town and for annexation to the school district in which the town is located or to some other school district or districts any part or all of the remaining territory of the school district affected by extension of the limits of the town: **PROVIDED,** That where no school or school site is located within the territory annexed to the town and not less than seventy-five percent of the registered voters residing within the annexed territory present a petition in writing for annexation and transfer of said territory to the school district in which the town is located, the educational service district superintendent shall declare the territory so included to be a part of the school district containing said town: **PROVIDED FURTHER,** That territory approved for annexation to a city or town by vote of the electors residing therein prior to January 12, 1953, shall not be subject to the provisions herein respecting annexation to a school district or school districts: **AND PROVIDED FURTHER,** That the provisions and procedural requirements of this chapter as now or hereafter amended not in conflict with or inconsistent with the provisions hereinabove in this section stated shall apply in the case of any proposal or proposals (1) for the alteration of the boundaries of school districts through and by means of annexation of territory as aforesaid, and (2) for the adjustment of the assets and liabilities of the school districts involved or affected thereby.

In case of the incorporation of a city or town containing territory lying in two or more school districts or of the uniting of two or more cities or towns not located in the same school district, the educational service district superintendent, except where the incorporation or consolidation would affect a district or districts of the first class, shall: (1) Order and declare to be established in each such case a single school district comprising all of the school districts involved, and (2) designate each such district by name and by a number different from that of any other district in existence in the county.

The educational service district superintendent shall fix as the effective date of any declaration or order required under this section a date no later than the first day of September next succeeding the date of the issuance of such declaration or order. [1985 c 385 § 19; 1975 1st ex.s. c 275 § 90; 1969 ex.s. c 176 § 126; 1969 ex.s. c 223 § 28A.57.150. Prior: 1965 ex.s. c 108 § 1; 1963 c 208 § 1; 1953 c 49 § 1; 1947 c 266 § 5; Rem. Supp. 1947 § 4693-24; prior: 1909 c 97 p 265 § 3; RRS § 4703. Formerly RCW 28A.57.150, 28.57.150.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.260 Reorganization of districts by transfer of territory or annexation.** A new school district may be formed comprising contiguous territory lying in either a

single county or in two or more counties. Such new district may comprise two or more whole school districts and/or a part of one or more school districts and/or territory which is not a part of any school district. The boundaries of existing school districts may be altered (1) by the transfer of territory from one district to another district, or (2) by the annexation to a district of a part or all of one or more other districts or of territory which is not a part of any school district: PROVIDED, That such territory shall be contiguous to the district to which it is transferred or annexed. Territory may be transferred or annexed to an existing school district without regard to county boundaries. [1969 ex.s. c 223 § 28A.57.160. Prior: 1947 c 266 § 4; Rem. Supp. 1947 § 4693-23. Formerly RCW 28A.57.160, 28.57.160.]

**28A.315.270 Petition for reorganization—Conditions.** For the purpose of forming a new school district, a petition in writing may be presented to the educational service district superintendent, as secretary of the regional committee, by registered voters residing (1) in each whole district and in each part of a district proposed to be included in any single new district, or (2) in the territory of a proposed new district which comprises a part only of one or more districts. A total of ten or more registered voters residing in such affected areas or area as the case may be may sign and present such petition with the approval of the boards of directors of the affected school districts. A total of ten percent or more of the registered voters residing in such affected areas or area as the case may be may sign and present such petition with or without the approval of the boards of directors of the affected school districts. The petition shall state the name and number of each district involved in or affected by the proposal to form the new district and shall describe the boundaries of the proposed new district. No more than one petition for consolidation of the same two school districts or parts thereof will be considered during a school fiscal year. [1985 c 385 § 20; 1982 c 191 § 1; 1975 1st ex.s. c 275 § 91; 1969 ex.s. c 176 § 127; 1969 ex.s. c 223 § 28A.57.170. Prior: 1947 c 266 § 15; Rem. Supp. 1947 § 4693-34; prior: 1909 c 97 p 266 § 1; RRS § 4721; prior: 1899 c 14 § 1; 1897 c 118 § 4; 1891 c 127 § 7; 1890 p 361 § 19. Formerly RCW 28A.57.170, 28.57.170.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Effective date—1982 c 191:** "The effective date of sections 3 and 4 of this amendatory act shall be September 1, 1982." [1982 c 191 § 13.] Sections 3 and 4 of this amendatory act [1982 c 191] were codified as RCW 28A.58.131 and 28A.58.035, respectively.

**Severability—1982 c 191:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 191 § 14.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.280 Transfer of territory—By petition—By ESD superintendent—When election required.** For the purpose of transferring territory from one school district to another district, a petition in writing may be presented to the educational service district

superintendent, as secretary of the regional committee, signed by a majority of the registered voters residing in the territory proposed to be transferred, or by the board of directors of one of the districts affected by a proposed transfer of territory if there is no registered voter resident in the territory, which petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory: PROVIDED, That the educational service district superintendent, without being petitioned to do so, may present to the regional committee a proposal for the transfer from one school district to another of any territory in which no children of school age reside: PROVIDED FURTHER, That the educational service district superintendent shall not complete any transfer of territory pursuant to the provisions of this section which involves ten percent or more of the common school student population of the entire district from which such transfer is proposed, unless he or she has first called and held a special election of the voters of the entire school district from which such transfer of territory is proposed for the purpose of affording said voters an opportunity to approve or reject such proposed transfer, and has obtained approval of the proposed transfer by a majority of those registered voters voting in said election; and if such proposed transfer is disapproved, the state board of education shall determine whether or not said district is meeting or capable of meeting minimum standards of education as set up by the state board. If the state board decides in the negative, the superintendent of public instruction may thereupon withhold from such district, in whole or in part, state contributed funds. [1985 c 385 § 21; 1975 1st ex.s. c 275 § 92; 1969 ex.s. c 176 § 128; 1969 ex.s. c 223 § 28A.57.180. Prior: 1959 c 268 § 14; 1947 c 266 § 16; Rem. Supp. 1947 § 4693-35; prior: 1915 c 50 § 1; RRS § 4727. Formerly RCW 28A.57.180, 28.57.180.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.290 Annexation of district bounded on three sides by high school district.** Whenever all or any part of a school district in which no accredited high school is maintained is bounded on three or more sides by a school district in which an accredited high school is situated and maintained, or by a school district in which a high school with a program approved by the state board of education is situated and maintained, the educational service district superintendent shall report said fact to the regional committee, which committee shall consider the question of the annexation to the aforesaid high school district of the territory or district so bounded. [1985 c 385 § 22; 1975 1st ex.s. c 275 § 93; 1969 ex.s. c 176 § 129; 1969 ex.s. c 223 § 28A.57.190. Prior: 1947 c 266 § 17; Rem. Supp. 1947 § 4693-36. Formerly RCW 28A.57.190, 28.57.190.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.300 Single school district for certain United States military reservations—Mandated.** Notwithstanding other provisions of this chapter or any other provision of law and except as otherwise provided in RCW 28A.315.310, as of July 1, 1972, any United States military reservation in the state of Washington with more than two thousand five hundred common school age children in public schools resident thereon shall be included wholly within the boundaries of a single school district. Such single school district shall be one of the school districts presently having boundary lines within such military reservation and serving pupils thereon. The procedure for achieving such single school districts where they do not now exist, or in any year in the future when there are more than two thousand five hundred common school age children on such a military reservation resident therein, shall be as prescribed in RCW 28A.315.310. [1990 c 33 § 307; 1972 ex.s. c 63 § 1. Formerly RCW 28A.57.195.]

**28A.315.310 Single school district for certain United States military reservations—Procedure—Limitations.** On or before June 1, 1972, or in any year in the future when there are more than two thousand five hundred common school age children on a military reservation as referred to in RCW 28A.315.300 resident therein, whichever is the case, and notwithstanding other provisions of this chapter or any other provision of law, the regional committee of each educational service district in which such a United States military reservation is located, or in the case such military reservation is located in two or more educational service districts, the joint regional committee established pursuant to RCW 28A.315.360, shall order effective September 1 of the then calendar year the annexation of portions of reservation territory not currently within the single school district, as required by RCW 28A.315.300, to one of the school districts encompassing a portion of the military reservation: **PROVIDED**, That notwithstanding any other provision of RCW 28A.315.300 and 28A.315.310 the annexation order shall not include territory of school districts on such military reservations in which none or less than a majority of the pupils residing within that portion of the district within such military reservation have one or more parents serving in the military and under such military command. Notwithstanding any other provision of law, the decision as to which school district shall serve the pupils residing within such military reservation shall rest solely with the regional committee of the educational service district in which the affected military reservation is located. The regional committee shall order such equitable transfer of assets and liabilities as is deemed necessary for the orderly transfer of the territory in accordance with transfers in other annexation proceedings authorized under this chapter. [1990 c 33 § 308; 1985 c 385 § 23; 1972 ex.s. c 63 § 2. Formerly RCW 28A.57.196.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.315.320 Dissolution and annexation of certain districts—Annexation of nondistrict property.** In case any school district shall have an average enrollment of fewer than five kindergarten through eighth grade pupils during the preceding school year, including the 1984–85 school year and any subsequent school year, or shall not have made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report said fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts: **PROVIDED**, That for the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by the conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15 of that year: **PROVIDED FURTHER**, That school districts operating an extended school year program, most commonly implemented as a 45–15 plan, shall be deemed to be making a reasonable effort: **PROVIDED FURTHER**, That in the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees such district shall not be subject to the requirements of this section. In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of said territory to some contiguous district or districts. [1985 c 385 § 24; 1975–'76 2nd ex.s. c 15 § 4. Prior: 1975 1st ex.s. c 275 § 94; 1975 1st ex.s. c 23 § 1; 1970 ex.s. c 86 § 4; 1969 ex.s. c 176 § 130; 1969 ex.s. c 223 § 28A.57.200; prior: 1947 c 266 § 18; Rem. Supp. 1947 § 4693–37. Formerly RCW 28A.57.200, 28.57.200.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Severability—1970 ex.s. c 86:** "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 86 § 7.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.330 Adjustment of indebtedness—Basis.** The fact of the issuance of bonds by a school district, heretofore or hereafter, shall not prevent changes in the organization and extent of school districts, regardless of whether or not such bonds or any part thereof are outstanding at the time of change. In case of any change (1) the bonded indebtedness outstanding against any school district involved in or affected by such change shall be adjusted equitably among the old school districts and the new district or districts, if any, involved or affected; and (2) the property and other assets and the liabilities other than bonded indebtedness of any school district involved in or affected by any such change shall also be adjusted in the manner and to the effect hereinbefore in this section provided for, except when all the territory of an old school district is included in a single

new district or is annexed to a single existing district, in which event the title to the property and other assets and the liabilities other than bonded indebtedness of such old district shall vest in and become the assets and liabilities of the new district or of the existing district as the case may be. [1969 ex.s. c 223 § 28A.57.210. Prior: 1947 c 266 § 7; Rem. Supp. 1947 § 4693–26. Formerly RCW 28A.57.210, 28.57.210.]

**28A.315.340 Corporate existence retained to pay bonded indebtedness—Tax levies—Joint school districts.** Each school district involved in or affected by any change heretofore or hereafter made in the organization and extent of school districts shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said change has been paid in full: PROVIDED, That nothing in this section shall be so construed as to prevent, after the aforesaid effective date, such adjustments of bonded indebtedness as are provided for in this chapter. The county commissioners shall have the power and it shall be their duty to provide by appropriate levies on the taxable property of each school district for the payment of the bonded indebtedness outstanding against it after any of the aforesaid changes and/or adjustments have been effected. In case any such changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against such joint district after said changes or adjustments are effected shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts heretofore established. [1969 ex.s. c 223 § 28A.57.220. Prior: 1947 c 266 § 8; Rem. Supp. 1947 § 4693–27. Formerly RCW 28A.57.220, 28.57.220.]

**28A.315.350 Joint school districts—Defined—Designation.** Any school district composed of territory lying in more than one county shall be known as a joint school district, and shall be designated by number in accordance with rules and regulations promulgated under RCW 28A.305.150. [1990 c 33 § 309; 1973 c 47 § 1; 1969 ex.s. c 223 § 28A.57.230. Prior: 1947 c 266 § 25; Rem. Supp. 1947 § 4693–44; prior: 1909 c 97 p 264 § 6; RRS § 4699; prior: 1897 c 118 § 13. Formerly RCW 28A.57.230, 28.57.230.]

**Severability—1973 c 47:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 47 § 6.]

**28A.315.360 School districts in two or more educational service districts—Change or adjustment of districts—Procedure generally.** The duties in this chapter imposed upon and required to be performed by a regional committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts

and with all matters related to such change or adjustment whenever territory lying in a single educational service district is involved shall be performed jointly by the regional committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one educational service district is involved in a proposed change in the organization and extent of school districts: PROVIDED, That a regional committee may designate three of its members, or two of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by a majority of the regional committee. Proposals for changes in the organization and extent of school districts and proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the state board by the regional committee of the educational service district in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein. [1985 c 385 § 25; 1975 1st ex.s. c 275 § 95; 1973 c 47 § 2; 1969 ex.s. c 176 § 131; 1969 ex.s. c 223 § 28A.57.240. Prior: 1947 c 266 § 26; Rem. Supp. 1947 § 4693–45. Formerly RCW 28A.57.240, 28.57.240.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Severability—1973 c 47:** See note following RCW 28A.315.350.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.370 School districts in two or more educational service districts—Proposed change or adjustment—Procedure when one committee does not approve, or fails to act—Temporary committee.** Whenever a proposed change in the organization and extent of school districts or an adjustment of the assets and liabilities of school districts, or both, or any other matters related to such change or adjustment involve school districts in two or more educational service districts, and a majority of at least one of the regional committees involved approve a proposal but the proposal is not approved by the other regional committee or committees or one or more of said committees fails or refuses to act upon the proposal within sixty days of its receipt, the regional committee or committees approving the proposal shall certify the proposal and its approval to the state superintendent of public instruction. Upon receipt of a properly certified proposal, the state superintendent of public instruction shall appoint a temporary committee composed of five persons. The members of the temporary committee shall be selected from the membership of any regional committee in this state except that no member shall be appointed from any educational service district in which there is situated a school district that would be affected by the proposed change. Said committee shall meet at the call of the state superintendent of public instruction and organize by electing a chair and secretary. Thereupon, this temporary committee shall have jurisdiction of the proposal and shall treat the same as a proposal initiated on its own motion. Said committee shall have the powers and

duties imposed upon and required to be performed by a regional committee under the provisions of this chapter and the secretary of the committee shall have the powers and duties imposed upon and required to be performed by the educational service district superintendents under the provisions of this chapter. It shall be the duty of the educational service district superintendents of the educational service districts in which the school districts that would be affected by the proposed change are situated to assist the temporary committee by supplying said committee with information from the records and files of their offices and with a proper and suitable place for holding meetings. [1990 c 33 § 310; 1985 c 385 § 26; 1975 1st ex.s. c 275 § 96; 1969 ex.s. c 176 § 132; 1969 ex.s. c 223 § 28A.57.245. Prior: 1959 c 268 § 5. Formerly RCW 28A.57.245, 28.57.245.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.  
**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.380 Joint school districts—Administration—County to which joint school district considered as belonging.** For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the state board of education. Prior to making such designation, the state board of education shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the state board shall consider the following prior to its designation:

- (1) Service needs of such district;
- (2) Availability of services;
- (3) Geographic location of district and servicing agencies; and
- (4) Relationship to contiguous school districts. [1973 c 47 § 3; 1969 ex.s. c 223 § 28A.57.250. Prior: 1947 c 266 § 27; Rem. Supp. 1947 § 4693-46. Formerly RCW 28A.57.250, 28.57.250.]

**Severability**—1973 c 47: See note following RCW 28A.315.350.

**28A.315.390 Joint school districts—Special rules for electors voting for directors.** The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in RCW 28A.315.380.

At each general election, or upon approval of a request for a special election as provided for in RCW 29.13.020, such county auditor shall:

- (1) See that there shall be at least one polling place in each county;
- (2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and

(3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district. [1990 c 33 § 311; 1983 c 56 § 6; 1975 1st ex.s. c 275 § 97; 1973 c 47 § 4; 1969 ex.s. c 176 § 133; 1969 ex.s. c 223 § 28A.57.255. Prior: 1961 c 130 § 23. Formerly RCW 28A.57.255, 28.57.255.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Severability**—1973 c 47: See note following RCW 28A.315.350.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.400 Joint school districts—Directors—Vacancies.** A vacancy in the office of director of a joint district shall be filled in the manner provided by RCW 28A.315.530 for filling vacancies, such appointment to be valid only until a director is elected and qualified to fill such vacancy at the next regular district election. [1990 c 33 § 312; 1973 c 47 § 5; 1971 c 53 § 3; 1969 ex.s. c 176 § 134; 1969 ex.s. c 223 § 28A.57.260. Prior: 1947 c 266 § 28; Rem. Supp. 1947 § 4693-47. Formerly RCW 28A.57.260, 28.57.260.]

**Severability**—1973 c 47: See note following RCW 28A.315.350.

**Severability**—1971 c 53: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 53 § 6.]

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.410 Joint school districts—Powers and duties.** A joint school district and the officers thereof shall possess all the powers and be subject to all of the duties vested in or imposed upon other school districts of the same class and upon the officers thereof, except as otherwise provided by law. Whenever the laws relating to school districts shall provide for any action by a county officer, such action, if required to be performed in behalf of a joint school district, shall be performed by the proper officer of the county to which the joint district belongs, except as otherwise provided by law. [1969 ex.s. c 223 § 28A.57.270. Prior: 1947 c 266 § 29; Rem. Supp. 1947 § 4693-48. Formerly RCW 28A.57.270, 28.57.270.]

**28A.315.420 Joint school districts—Assessed valuation of district property to be certified.** It shall be the duty of the assessor of each county, a part of which is included within a joint school district, to certify annually to the auditor of the assessor's county and to the auditor of the county to which the joint district belongs, for the board of county commissioners thereof, the aggregate assessed valuation of all taxable property in the assessor's county situated in such joint school district, as the same appears from the last assessment roll of the assessor's county. [1990 c 33 § 313; 1969 ex.s. c 223 § 28A.57.280. Prior: 1947 c 266 § 30; Rem. Supp. 1947 § 4693-49; prior: 1927 c 286 § 1; 1925 ex.s. c 77 § 8; RRS § 4753-8. Formerly RCW 28A.57.280, 28.57.280.]

**28A.315.430 Joint school districts—Levy of tax—Ratio.** The amount of tax to be levied upon the taxable property of that part of a joint school district lying in one county shall be in such ratio to the whole amount levied upon the property in the entire joint district as the assessed valuation of the property lying in such county bears to the assessed valuation of the property in the entire joint district. [1983 c 56 § 7; 1975 1st ex.s. c 275 § 98; 1969 ex.s. c 176 § 135; 1969 ex.s. c 223 § 28A.57.290. Prior: 1947 c 266 § 31; Rem. Supp. 1947 § 4693–50; prior: (i) 1925 ex.s. c 77 § 10; RRS § 4753–10. (ii) 1927 c 286 § 2; RRS § 4753–11. Formerly RCW 28A.57.290, 28.57.290.]

**Severability—1983 c 56:** See note following RCW 28A.195.010.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.440 Joint school districts—Levy of tax—Remittance of collections to district treasurer.** Upon receipt of the aforesaid certificate, it shall be the duty of the board of county commissioners of each county to levy on all taxable property of that part of the joint school district which lies within the county a tax sufficient to raise the amount necessary to meet the county's proportionate share of the estimated expenditures of the joint district, as shown by the certificate of the educational service district superintendent of the district to which the joint school district belongs. Such taxes shall be levied and collected in the same manner as other taxes are levied and collected, and the proceeds thereof shall be forwarded quarterly by the treasurer of each county, other than the county to which the joint district belongs, to the treasurer of the county to which such district belongs and shall be placed to the credit of said district. The treasurer of the county to which a joint school district belongs is hereby declared to be the treasurer of such district. [1975 1st ex.s. c 275 § 99; 1969 ex.s. c 176 § 136; 1969 ex.s. c 223 § 28A.57.300. Prior: 1947 c 266 § 32; Rem. Supp. 1947 § 4693–51. Formerly RCW 28A.57.300, 28.57.300.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.315.450 Directors—Elections—Terms—Number.** The governing board of a school district shall be known as the board of directors of the district.

Unless otherwise specifically provided, as in RCW 29.13.060, each member of a board of directors shall be elected by ballot by the registered voters of the school district and shall hold office for a term of four years and until a successor is elected and qualified. Terms of school directors shall be staggered, and insofar as possible, not more than a majority of one shall be elected to full terms at any regular election. In case a member or members of a board of directors are to be elected to fill an unexpired term or terms, the ballot shall specify the term for which each such member is to be elected.

Except for a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which shall have a

board of directors of seven members, the board of directors of every school district of the first class or school district of the second class shall consist of five members. [1991 c 363 § 20; 1980 c 35 § 1; 1980 c 47 § 1. Prior: 1979 ex.s. c 183 § 1; 1979 ex.s. c 126 § 4; 1975 c 43 § 5; 1973 2nd ex.s. c 21 § 1; 1969 c 131 § 8; 1969 ex.s. c 223 § 28A.57.312; prior: 1957 c 67 § 1; 1955 c 55 § 11; 1947 c 266 § 10; Rem. Supp. 1947 § 4693–29; prior: 1909 pp 289, 290 §§ 1,2; RRS §§ 4790, 4791. Formerly RCW 28A.57.312, 28.57.338, 28.58.080.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1980 c 35:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 35 § 10.]

**Severability—1980 c 47:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 47 § 5.]

**Effective date—Severability—1979 ex.s. c 183:** See notes following RCW 28A.315.580.

**Purpose—1979 ex.s. c 126:** See RCW 29.04.170(1).

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.315.460 Directors—First class districts having city with population of 400,000 people or more—Terms.** After July 1, 1979, the election of directors of any first class school district having within its boundaries a city with a population of four hundred thousand people or more, shall be to four year terms. The initial four year terms required by this section shall commence upon the expiration of terms in existence at July 1, 1979. Nothing in \*this amendatory act shall affect the term of office of any incumbent director of any such first class school district. [1991 c 363 § 21; 1979 ex.s. c 183 § 10. Formerly RCW 28A.57.313.]

**\*Reviser's note:** For disposition of sections in "this amendatory act" [1979 ex.s. c 183], see Codification Tables, Volume 0.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Effective date—Severability—1979 ex.s. c 183:** See notes following RCW 28A.315.580.

**Directors—Number and terms of in new first class district having city with population of 400,000 people or more:** RCW 28A.315.630.

**28A.315.470 Directors—Declarations of candidacy—Designation of positions.** (Effective until July 1, 1992.) Candidates for the position of school director shall file their declarations of candidacy as provided in \*RCW 29.21.060, as it now exists or may hereafter be amended.

Not less than ten days before the time of filing such declarations of candidacy, the officer charged with the conduct of the election shall designate by lot the positions to be filled by consecutive number, commencing with one. The positions so designated for school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, or a combination of

director districts and director at large positions, candidates shall file for such director districts or at large positions. Position numbers shall be assigned to correspond to director district numbers to the extent possible. [1990 c 161 § 4; 1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28A.57.314, 28.58.082.]

\*Reviser's note: RCW 29.21.060 was repealed by 1990 c 59 § 112, effective July 1, 1992.

Commencement of terms of office: RCW 29.13.020, 29.13.050.

Nonpartisan primaries and elections: Chapter 29.21 RCW.

School district elections

in class AA and class A counties, times for holding: RCW 29.13.020, 29.13.060.

in class 1 through 9 counties, times for holding: RCW 29.13.020.

Terms of office: RCW 29.13.020, 29.13.050, 29.13.060.

28A.315.470 Directors—Declarations of candidacy—Positions as separate offices. (Effective July 1, 1992.) Candidates for the position of school director shall file their declarations of candidacy as provided in Title 29 RCW.

The positions of school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, or a combination of director districts and director at large positions, candidates shall file for such director districts or at large positions. Position numbers shall be assigned to correspond to director district numbers to the extent possible. [1990 c 161 § 4; 1990 c 59 § 98; 1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28A.57.314, 28.58.082.]

Reviser's note: This section was amended by 1990 c 59 § 98 and by 1990 c 161 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

Commencement of terms of office: RCW 29.13.020, 29.13.050.

Nonpartisan primaries and elections: Chapter 29.21 RCW.

School district elections

in class AA and class A counties, times for holding: RCW 29.13.020, 29.13.060.

in class 1 through 9 counties, times for holding: RCW 29.13.020.

Terms of office: RCW 29.13.020, 29.13.050, 29.13.060.

28A.315.480 Directors—Ballots—Form. Except as provided in RCW 29.21.010, the positions of school directors and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT

District No. -----

Date -----

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

School District Directors

Position No. 1

Vote for One

-----   
-----   
-----

Position No. 2

Vote for One

-----   
-----   
-----

To Fill Unexpired Term

Position No. 3

2 (or 4) year term

Vote for One

-----   
-----   
-----

The names of candidates shall appear upon the ballot in order of filing for each position. There shall be no rotation of names in the printing of such ballots. [1969 ex.s. c 223 § 28A.57.316. Prior: 1963 c 223 § 2. Formerly RCW 28A.57.316, 28.58.083.]

28A.315.490 Directors—Elected when—Qualifications. Directors of school districts shall be elected at regular school elections. No person shall be eligible to the office of school director who is not a citizen of the United States and the state of Washington and a registered voter of either the school district or director district, as the case may be. [1969 ex.s. c 223 § 28A.57.318. Prior: 1909 c 97 p 285 § 1; RRS § 4775; prior: 1903 c 104 § 16; 1901 c 41 § 2; 1899 c 142 § 7; 1897 c 118 § 39; 1893 c 107 § 2; 1890 p 364 § 25. Formerly RCW 28A.57.318, 28.58.090.]

28A.315.500 Directors—Oath of office. Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of his or her ability. In case any official has a written appointment or commission, the official's oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the county auditor. Every person elected to the office of school director shall begin his or her term of office at the first

official meeting of the board of directors following certification of the election results. [1990 c 33 § 314; 1988 c 187 § 1; 1986 c 167 § 16; 1969 ex.s. c 223 § 28A.57.322. Prior: 1909 c 97 p 288 § 11; RRS § 4786; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.57.322, 28.58.095, 28.63.015, 28.63.017, 42.04.030.]

**Severability**—1986 c 167: See note following RCW 29.01.055.

**28A.315.510 Directors—Meetings.** Regular meetings of the board of directors of any school district shall be held monthly or more often at such a time as the board of directors by resolution shall determine or the bylaws of the board may prescribe. Special or deferred meetings may be held from time to time as circumstances may demand, at the call of the president, if a first class district, or the chair of the board, if a second class district, or on petition of a majority of the members of the board. All meetings shall be open to the public unless the board shall otherwise order an executive session as provided in RCW 42.30.110. [1990 c 33 § 315; 1983 c 3 § 35; 1975 c 43 § 6; 1969 ex.s. c 223 § 28A.57.324. Prior: (i) 1909 c 97 p 291 § 9; RRS § 4798; prior: 1897 c 118 § 86; 1890 p 389 § 13. Formerly RCW 28.62.090. (ii) 1965 ex.s. c 87 § 1; 1909 c 97 p 299 § 6; RRS § 4816. Formerly RCW 28.63.030. (iii) 1965 ex.s. c 87 § 2; 1909 c 97 p 302 § 6; RRS § 4828. Formerly RCW 28A.57.324, 28.63.032.]

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**28A.315.520 Directors—Quorum—Failure to attend meetings may result in vacation of office.** A majority of all members of the board of directors shall constitute a quorum. Absence of any board member from four consecutive regular meetings of the board, unless on account of sickness or authorized by resolution of the board, shall be sufficient cause for the remaining members of the board to declare by resolution that such board member position is vacated. [1971 c 53 § 4. Formerly RCW 28A.57.325.]

**Severability**—1971 c 53: See note following RCW 28A.315.400.

**28A.315.530 Directors—Filling vacancies.** (1) In case of a vacancy from any cause on the board of directors of a school district other than a reconstituted board resulting from reorganized school districts, a majority of the legally established number of board members shall fill such vacancy by appointment: **PROVIDED**, That should there exist fewer board members on the board of directors of a school district than constitutes a majority of the legally established number of board members, the educational service district board members of the district in which the school district is located by the vote of a majority of its legally established number of board members shall appoint a sufficient number of board members to constitute a legal majority on the board of directors of such school district; and the remaining vacancies on such board of directors shall be filled by such board of directors in accordance with the provisions of this section: **PROVIDED FURTHER**, That should any

board of directors for whatever reason fail to fill a vacancy within ninety days from the creation of such vacancy, the members of the educational service district board of the district in which the school district is located by majority vote shall fill such vacancy.

(2) Appointees to fill vacancies on boards of directors of school districts shall meet the requirements provided by law for school directors and shall serve until the next regular school district election, at which time a successor shall be elected for the unexpired term.

(3) If a vacancy will be created by a board member who has submitted a resignation, that board member may not vote on the selection of his or her replacement. [1991 c 60 § 1; 1975 1st ex.s. c 275 § 100; 1971 c 53 § 2; 1969 ex.s. c 176 § 156; 1969 ex.s. c 223 § 28A.57.326. Prior: (i) 1909 c 97 p 292 § 12; RRS 4801; prior: 1907 c 31 § 3; 1897 c 118 § 89; 1890 p 390 § 16. Formerly RCW 28.62.120. (ii) 1909 c 97 p 298 § 3; RRS § 4813. Formerly RCW 28.63.020. (iii) 1909 c 97 p 301 § 3; RRS § 4825. Formerly RCW 28.63.022. (iv) 1959 c 216 § 7, part; 1955 c 157 § 14, part; prior: 1909 p 281 § 4, part; 1903 c 104 § 14, part; 1899 c 142 § 6, part; 1897 c 118 § 33, part; 1891 c 127 § 3, part; 1890 p 355 § 11, part; RRS § 4770, part. Formerly RCW 28A.57.326, 28.19.060, part.]

**Severability**—1971 c 53: See note following RCW 28A.315.400.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.540 Directors—Compensation—Waiver.** Each member of the board of directors of a school district may receive compensation of fifty dollars per day or portion thereof for attending board meetings and for performing other services on behalf of the school district, not to exceed four thousand eight hundred dollars per year, if the district board of directors has authorized by board resolution, at a regularly scheduled meeting, the provision of such compensation. A board of directors of a school district may authorize such compensation only from locally collected excess levy funds available for that purpose, and compensation for board members shall not cause the state to incur any present or future funding obligation.

Any director may waive all or any portion of his or her compensation under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the director's election and before the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The compensation provided in this section shall be in addition to any reimbursement for expenses paid to such directors by the school district. [1987 c 307 § 2. Formerly RCW 28A.57.327.]

**Intent**—1987 c 307: "The legislature declares it is the policy of the state to:

(1) Ensure, for the sake of educational excellence, that the electorate has the broadest possible field in which to choose qualified candidates for its school boards;

(2) Ensure that the opportunity to serve on school boards be open to all, regardless of financial circumstances; and

(3) Ensure that the time-consuming and demanding service as directors not be limited to those able or willing to make substantial personal and financial sacrifices." [1987 c 307 § 1.]

**Effective date**—1987 c 307: "This act shall take effect on September 1, 1987." [1987 c 307 § 3.]

**28A.315.550 Directors—Number and terms of in new second class districts.** Upon the establishment of a new school district of the second class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the educational service district board shall appoint the number of additional directors required to constitute a board of five directors for the new second class district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class. Each initial director shall hold office until his or her successor is elected and qualified: PROVIDED, That the election of the successor shall be held during the second district general election after the initial directors have assumed office. At such election, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in RCW 28A.315.450. [1990 c 33 § 316; 1980 c 35 § 2; 1979 ex.s. c 126 § 5; 1975-'76 2nd ex.s. c 15 § 5. Prior: 1975 1st ex.s. c 275 § 101; 1975 c 43 § 7; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328; prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28A.57.328, 28.57.350, part.]

**Severability**—1980 c 35: See note following RCW 28A.315.450.

**Purpose**—1979 ex.s. c 126: See RCW 29.04.170(1).

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.560 Directors—Candidates in undivided districts to indicate term sought—How elected.** Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in RCW 29.21.140, and assign position numbers thereto as provided in RCW 28A.315.470 and each candidate shall indicate on his or her declaration of candidacy the term for which he or she seeks to be elected

and position number for which he or she is filing. The candidate receiving the largest number of votes for each position shall be deemed elected. [1990 c 33 § 317; 1969 ex.s. c 223 § 28A.57.334. Prior: 1959 c 268 § 12. Formerly RCW 28A.57.334, 28.57.420.]

**28A.315.570 Directors—Terms in certain first class districts to be staggered.** Any first class school district having a board of directors of five members as provided in RCW 28A.315.450 and which elects directors for a term of six years under the provisions of RCW 29.13.060 shall cause the office of at least one director and no more than two directors to be up for election at each regular school district election held hereafter and, except as provided in RCW 28A.315.680, any first class school district having a board of directors of seven members as provided in RCW 28A.315.450 shall cause the office of two directors and no more than three directors to be up for election at each regular school district election held hereafter. [1990 c 33 § 318; 1969 c 131 § 11; 1969 ex.s. c 223 § 28A.57.336. Prior: 1959 c 268 § 13. Formerly RCW 28A.57.336, 28.57.430.]

**28A.315.580 Directors' districts in certain school districts—Submittal of proposition at formation election.** Whenever an election shall be held for the purpose of securing the approval of the voters for the formation of a new school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more, if requested by one of the boards of directors of the school districts affected, there shall also be submitted to the voters at the same election a proposition to authorize the board of directors to divide the school district, if formed, into five directors' districts in first class school districts and a choice of five directors' districts or no fewer than three directors' districts with the balance of the directors to be elected at large in second class school districts. Such director districts in second class districts, if approved, shall not become effective until the regular school election following the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.315.550. Such director districts in first class districts, if approved, shall not become effective until the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.315.600, 28A.315.610, and 28A.315.620. Each of the five directors shall be elected from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire school district. [1991 c 363 § 22; 1991 c 288 § 3. Prior: 1990 c 161 § 5; 1990 c 33 § 319; 1985 c 385 § 27; 1979 ex.s. c 183 § 2; 1975 c 43 § 8; 1973 2nd ex.s. c 21 § 2; 1971 c 67 § 2; 1969 ex.s. c 223 § 28A.57.342; prior: 1959 c 268 § 4. Formerly RCW 28A.57.342, 28.57.342.]

**Reviser's note:** This section was amended by 1991 c 288 § 3 and by 1991 c 363 § 22, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Effective date—1979 ex.s. c 183:** "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 183 § 12.]

**Severability—1979 ex.s. c 183:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 183 § 13.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.315.590 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts.** The board of directors of every first class school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which is not divided into directors' districts may submit to the voters at any regular school district election a proposition to authorize the board of directors to divide the district into directors' districts or for second class school districts into director districts or a combination of no fewer than three director districts and no more than two at large positions. If a majority of the votes cast on the proposition is affirmative, the board of directors shall proceed to divide the district into directors' districts following the procedure established in RCW 29.70.100. Such director districts, if approved, shall not become effective until the next regular school election when a new five member board of directors shall be elected, one from each of the director districts from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire district, two for a term of two years and three for a term of four years, unless such district elects its directors for six years, in which case, one for a term of two years, two for a term of four years, and two for a term of six years. [1991 c 363 § 23; 1991 c 288 § 4; 1990 c 161 § 6; 1985 c 385 § 28; 1979 ex.s. c 183 § 3; 1975 c 43 § 9; 1973 2nd ex.s. c 21 § 3; 1971 c 67 § 8; 1969 ex.s. c 223 § 28A.57.344. Prior: 1959 c 268 § 3. Formerly RCW 28A.57.344, 28.57.344.]

**Reviser's note:** This section was amended by 1991 c 288 § 4 and by 1991 c 363 § 23, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Effective date—Severability—1979 ex.s. c 183:** See notes following RCW 28A.315.580.

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.315.593 Division or redivision of district into director districts.** It is the responsibility of each school district board of directors to prepare for the division or redivision of the district into director districts no later than eight months after any of the following:

(1) Receipt of federal decennial census data from the redistricting commission established in RCW 44.05.030;

(2) Consolidation of two or more districts into one district under RCW 28A.315.270;

(3) Transfer of territory to or from the district under RCW 28A.315.280;

(4) Annexation of territory to or from the district under RCW 28A.315.290 or 28A.315.320; or

(5) Approval by a majority of the registered voters voting on a proposition authorizing the division of the district into director districts pursuant to RCW 28A.315.590.

The districting or redistricting plan shall be consistent with the criteria and adopted according to the procedure established under RCW 29.70.100. [1991 c 288 § 1.]

**28A.315.597 District boundary changes—Submission to county auditor.** (1) Any district boundary changes, including changes in director district boundaries, shall be submitted to the county auditor by the school district board of directors within thirty days after the changes have been approved by the board. The board shall submit both legal descriptions and maps.

(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years shall not take effect until the following year. [1991 c 288 § 9.]

**28A.315.600 Directors—Number and terms of in first class districts containing no former first class district.** Upon the establishment of a new school district of the first class as provided for in RCW 28A.315.580 containing no former first class district, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in such new district, they shall become directors of said district and the educational service district board shall appoint the number of additional directors to constitute a board of five directors for the district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a county with a population of two hundred ten thousand or more and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1991 c 363 § 24; 1990 c 33 § 320;

1980 c 35 § 3; 1979 ex.s. c 126 § 6; 1975 1st ex.s. c 275 § 102; 1971 c 67 § 3. Formerly RCW 28A.57.355.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1980 c 35:** See note following RCW 28A.315.450.

**Purpose—1979 ex.s. c 126:** See RCW 29.04.170(1).

**28A.315.610 Directors—Number and terms of in first class districts containing only one former first class district.** Upon the establishment of a new school district of the first class as provided for in RCW 28A.315.580 containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a county with a population of two hundred ten thousand or more and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1991 c 363 § 25; 1990 c 33 § 321; 1980 c 35 § 4; 1979 ex.s. c 126 § 7; 1975-'76 2nd ex.s. c 15 § 6. Prior: 1975 1st ex.s. c 275 § 103; 1975 c 43 § 10; 1971 c 67 § 4. Formerly RCW 28A.57.356.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1980 c 35:** See note following RCW 28A.315.450.

**Purpose—1979 ex.s. c 126:** See RCW 29.04.170(1).

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.315.620 Directors—Number and terms of in first class districts containing more than one former first class district.** Upon the establishment of a new school district of the first class as provided for in RCW 28A.315.580 containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once

such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority conferred by law upon boards of first class districts until the next regular school election and until their successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13.060, as now or hereafter amended, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than a district having within its boundaries a city with a population of four hundred thousand people or more and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years. [1991 c 363 § 26; 1990 c 33 § 322; 1980 c 35 § 5; 1980 c 47 § 2. Prior: 1979 ex.s. c 183 § 4; 1979 ex.s. c 126 § 8; 1975-'76 2nd ex.s. c 15 § 7; prior: 1975 1st ex.s. c 275 § 104; 1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5. Formerly RCW 28A.57.357.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1980 c 35:** See note following RCW 28A.315.450.

**Severability—1980 c 47:** See note following RCW 28A.315.450.

**Effective date—Severability—1979 ex.s. c 183:** See notes following RCW 28A.315.580.

**Purpose—1979 ex.s. c 126:** See RCW 29.04.170(1).

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.315.630 Directors—Number and terms of in new first class district having city with population of 400,000 people or more.** Upon the establishment of a new school district of the first class having within its boundaries a city with a population of four hundred thousand people or more, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and qualified. Such duties shall include establishment of new director districts as provided for in RCW 28A.315.670. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and

three for a term of six years. Thereafter their terms shall be as provided in RCW 28A.315.460.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law. [1991 c 363 § 27; 1990 c 33 § 323; 1980 c 35 § 6; 1980 c 47 § 3. Prior: 1979 ex.s. c 183 § 5; 1979 ex.s. c 126 § 9; 1975-'76 2nd ex.s. c 15 § 8; prior: 1975 1st ex.s. c 275 § 105; 1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6. Formerly RCW 28A.57.358.]

**Purpose**—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

**Severability**—1980 c 35: See note following RCW 28A.315.450.

**Severability**—1980 c 47: See note following RCW 28A.315.450.

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**Purpose**—1979 ex.s. c 126: See RCW 29.04.170(1).

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**Directors**—*First class districts having city with population of 400,000 people or more*—*Terms*: RCW 28A.315.460.

**28A.315.640 Directors**—**Map and record of directors' districts.** Each educational service district superintendent shall prepare and keep in his or her office (1) a map showing the boundaries of the directors' districts of all school districts in or belonging to his or her educational service district that are so divided, and (2) a record of the action taken by the regional committee in establishing such boundaries. [1990 c 33 § 324; 1985 c 385 § 29; 1975 1st ex.s. c 275 § 106; 1969 ex.s. c 176 § 140; 1969 ex.s. c 223 § 28A.57.390. Prior: 1947 c 266 § 38; Rem. Supp. 1947 § 4693-57. Formerly RCW 28A-57.390, 28.57.390.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.315.650 Directors**—**Terms specified for directors in divided districts whose terms are not the same.** Whenever all directors to be elected in a school district that is divided into directors' districts are not all to be elected for the same term of years, the county auditor, prior to the date set by law for filing a declaration of candidacy for the office of director, shall determine by lot the directors' districts from which directors shall be elected for a term of two years and the directors' districts from which directors shall be elected for a term of four years. In districts with a combination of directors' districts and directors at large, the county auditor shall determine the terms of office in such a manner that two-year terms and four-year terms are distributed evenly to the extent possible between the director district and at large positions. Each candidate shall indicate on his or her declaration of candidacy the directors' district from which he or she seeks to be elected or whether the candidate is seeking election as a director at large. [1990 c 161 § 7; 1990 c 33 § 325; 1969 ex.s. c 223 § 28A.57-410. Prior: 1959 c 268 § 11. Formerly RCW 28A.57-410, 28.57.410.]

**Reviser's note:** This section was amended by 1990 c 33 § 325 and by 1990 c 161 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**28A.315.660 Directors**—**Dissolution of directors' districts.** Upon receipt by the educational service district superintendent of a resolution adopted by the board of directors or a written petition from a second class school district signed by at least twenty percent of the registered voters of a school district previously divided into directors' districts, which resolution or petition shall request dissolution of the existing directors' districts and reapportionment of the district into no fewer than three directors' districts and with no more than two directors at large, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal, such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at the expiration of terms of the incumbent directors of such school district their successors shall be elected in the manner approved. [1990 c 161 § 3; 1990 c 33 § 326; 1975-'76 2nd ex.s. c 15 § 9. Prior: 1975 1st ex.s. c 275 § 107; 1975 c 43 § 13; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415. Formerly RCW 28A.57.415.]

**Reviser's note:** This section was amended by 1990 c 33 § 326 and by 1990 c 161 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.315.670 Directors' districts in first class districts having city with population of 400,000 people or more**—**Boundaries**—**Director candidate eligibility**—**Declaration of candidacy**—**Primary limited to voters within district**—**When no primary**—**Terms of directors.** (Effective until July 1, 1992.) Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board, such boundaries to be established so that each such district shall comply, as nearly as practicable, with the criteria established in RCW 29.70.100. Boundaries of such director districts shall be adjusted by the school board following the procedure established in RCW 29.70.100 after each federal decennial census if population change shows the need thereof to comply with the criteria of RCW 29.70.100. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the

position of director in that district and shall be voted upon in the primary election by the registered voters of that particular director district: PROVIDED, That if not more than one person files a declaration of candidacy for the position of school director in any director district, no primary election shall be held in that district, and such candidate's name alone shall appear on the ballot for the director district position at the general election. The name of the person who receives the greatest number of votes and the name of the person who receives the next greatest number of votes at the primary for each director district position shall appear on the general election ballot under such position and shall be voted upon by all the registered voters in the school district. Except as provided in RCW 28A.315.680, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in RCW 28A.315.460. [1991 c 288 § 5; 1990 c 33 § 327; 1979 ex.s. c 183 § 6; 1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Formerly RCW 28A.57.425.]

**Expiration date**—1991 c 288 §§ 5, 7: "Sections 5 and 7 of this act shall expire July 1, 1992." [1991 c 288 § 11.]

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**28A.315.670 Directors' districts in first class districts having city with population of 400,000 people or more**—**Boundaries**—**Director candidate eligibility**—**Declaration of candidacy**—**Primary limited to voters within district**—**Terms of directors.** (Effective July 1, 1992.) Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board, such boundaries to be established so that each such district shall comply, as nearly as practicable, with the criteria established in RCW 29.70.100. Boundaries of such director districts shall be adjusted by the school board following the procedure established in RCW 29.70.100 after each federal decennial census if population change shows the need thereof to comply with the criteria of RCW 29.70.100. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon, in any primary required to be held for the position under Title 29 RCW, by the registered voters of that particular director district. In the general election, each position shall be voted upon by all the registered voters in the school district. The order of the names of candidates shall appear on the primary and general election ballots as required for nonpartisan positions under Title 29 RCW. Except as provided in RCW 28A.315.680, every such director so elected in school districts divided into seven director districts shall serve for a term of four

years as otherwise provided in RCW 28A.315.460. [1991 c 363 § 28; 1991 c 288 §§ 5, 6. Prior: 1990 c 59 § 99; 1990 c 33 § 327; 1979 ex.s. c 183 § 6; 1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Formerly RCW 28A.57.425.]

**Reviser's note:** This section was amended by 1991 c 288 §§ 5, 6 and by 1991 c 363 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective dates**—1991 c 363 §§ 28, 29, 33, 47, 131: "(1) Sections 28, 29, 33, and 131 of this act shall take effect July 1, 1992.

(2) Section 47 of this act shall take effect July 1, 1993." [1991 c 363 § 165.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**Effective date**—1991 c 288 §§ 6, 8: "Sections 6 and 8 of this act shall take effect July 1, 1992." [1991 c 288 § 12.]

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**28A.315.680 Directors' districts in first class districts having city with population of 400,000 people in class AA counties**—**Initial district boundaries**—**Appointments to fill vacancies for new director districts**—**Director district numbers.** (Effective until July 1, 1992.) The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, 28A.315.680, \*29.21.180, and 29.21.210. [1991 c 288 § 7; 1990 c 33 § 328; 1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Formerly RCW 28A.57.435.]

\***Reviser's note:** RCW 29.21.180 and 29.21.210 were repealed by 1990 c 59 § 112, effective July 1, 1992.

**Expiration date**—1991 c 288 §§ 5, 7: See note following RCW 28A.315.670.

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**28A.315.680 Directors' districts in first class districts having city with population of 400,000 people or more**—**Initial district boundaries**—**Appointments to fill vacancies for new director districts**—**Director district numbers.** (Effective July 1, 1992.) The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director

district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, 28A.315.680, and \*29.21.180. [1991 c 363 § 29; 1991 c 288 §§ 7, 8. Prior: 1990 c 59 § 72; 1990 c 33 § 328; 1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Formerly RCW 28A.57.435.]

**Reviser's note:** (1) This section was amended by 1991 c 288 §§ 7, 8 and by 1991 c 363 § 29, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

\* (2) RCW 29.21.180 was repealed by 1990 c 59 § 112, effective July 1, 1992.

**Effective dates**—1991 c 363 §§ 28, 29, 33, 47, 131: See note following RCW 28A.315.670.

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**Effective date**—1991 c 288 §§ 6, 8: See note following RCW 28A.315.670.

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**28A.315.685 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.315.690 Change of district name—Authorized—Petition for.** Any school district in the state, regardless of size or method of organization, may change its name in the following manner: Upon receipt of a petition signed by ten percent of the registered voters of the district, requesting that the name of the school district shall be changed and submitting with said request a proposed name, the school board shall accept or reject the petition within the time for the next two regular meetings. If the petition is rejected, the board's action shall not be appealed. [1969 ex.s. c 223 § 28A.58.600. Prior: 1967 ex.s. c 69 § 1. Formerly RCW 28A.58.600, 28.58.600.]

**28A.315.700 Change of district name—Public hearing on—Notice of—Hearing may include additional petitions.** If the petition is accepted, the board shall set a date for a public hearing thereon to be held within one month of the date of acceptance and cause notice thereof, together with the proposed new name to be published once a week for three consecutive weeks in a newspaper of general circulation within the school district: PROVIDED, That additional petitions for change of name may be heard at the same public hearing without the necessity of additional publication of notice, so

long as the additional proposed names are presented at any board meeting, whether special or regular, including at the public hearing. At the hearing any interested elector who is a resident of the school district may appear and speak for or against the propositions. [1969 ex.s. c 223 § 28A.58.601. Prior: 1967 ex.s. c 69 § 2. Formerly RCW 28A.58.601, 28.58.601.]

**28A.315.710 Change of district name—Board selection of name for voter approval.** Within two regular meetings after the public hearing the board shall select one name to present to the residents of the school district for their approval or rejection at the next special or general election. [1969 ex.s. c 223 § 28A.58.602. Prior: 1967 ex.s. c 69 § 3. Formerly RCW 28A.58.602, 28.58.602.]

**28A.315.720 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions.** If a majority of the electors voting at the election at which the proposed name is voted upon approve the proposed name, the new name shall be recorded in the school district office, the office of the educational service district superintendent, the offices of the state superintendent of public instruction and the state board of education.

All institutions which have a legal or financial interest in the status of a school district whose name has been changed shall be notified in a manner prescribed by the state attorney general. [1975 1st ex.s. c 275 § 114; 1971 c 48 § 32; 1969 ex.s. c 223 § 28A.58.603. Prior: 1967 ex.s. c 69 § 4. Formerly RCW 28A.58.603, 28.58.603.]

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.315.900 Proceedings as of July 28, 1985—Effect of 1985 c 385.** Any proceeding or hearing now or hereafter initiated, being considered, or in progress pursuant to this chapter as of July 28, 1985, or thereafter which is interrupted by a change in committee membership by chapter 385, Laws of 1985 shall continue and be assumed and decided with equal force and effect by the initial regional committees and all other successor committees provided for in RCW 28A.315.060 and 28A.315.120: PROVIDED, That such committees may elect to reconduct proceedings on hearings already in progress and shall reconduct wholly or partially completed hearings required pursuant to this chapter unless the majority of the committee deciding the matter have either read or heard previously submitted testimony and evidence. [1990 c 33 § 329; 1985 c 385 § 38. Formerly RCW 28A.57.900.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

## Chapter 28A.320

### PROVISIONS APPLICABLE TO ALL DISTRICTS

#### Sections

#### DISTRICT POWERS

28A.320.010 Corporate powers.

28A.320.020 Liability for debts and judgments.

- 28A.320.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration.
- 28A.320.040 Bylaws for board and school government.
- 28A.320.050 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses.
- 28A.320.060 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.
- 28A.320.070 School district as self-insurer—Authority.
- 28A.320.080 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets.
- 28A.320.090 Preparing and distributing information on district's instructional program, operation and maintenance—Limitation.
- 28A.320.100 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation.
- 28A.320.110 Information and research services.
- 28A.320.120 Cooperation with technical colleges—Jurisdiction over property—Administrative charges—Discrimination against employees of technical colleges prohibited—Dispute resolution.

#### PROGRAM EVALUATION

- 28A.320.200 Self-study process by school districts—Requirements—Rules.
- 28A.320.210 Student learning objectives—Program identifying and establishing, scope—Review.
- 28A.320.220 Repealed.
- 28A.320.230 Instructional materials—Instructional materials committee.
- 28A.320.240 Operation and stocking of libraries.

#### DEPOSIT, INVESTMENT, AND USE OF PROCEEDS

- 28A.320.300 Investment of funds, including funds received by ESD—Authority—Procedure.
- 28A.320.310 Investment of idle building funds—Restrictions.
- 28A.320.320 Investment of funds of district not needed for immediate necessities—Service fee.
- 28A.320.330 School funds enumerated—Deposits—Uses.

#### ELECTORS—QUALIFICATIONS, VOTING PLACE, AND

##### SPECIAL MEETINGS

- 28A.320.400 Elections—Qualifications of electors—Voting place.
- 28A.320.410 Elections—Elections to be conducted according to Title 29 RCW.
- 28A.320.420 Special meetings of voters—Authorized—Purpose.
- 28A.320.430 Special meetings of voters—Place, notice, procedure, record.
- 28A.320.440 Special meetings of voters—Directors to follow electors' decision.

#### SUMMER SCHOOL, NIGHT SCHOOL, EXTRACURRICULAR ACTIVITIES, AND ATHLETICS

- 28A.320.500 Summer and/or other student vacation period programs—Authorized—Tuition and fees.
- 28A.320.510 Night schools, summer schools, meetings, use of facilities for.

#### DISTRICT POWERS

**28A.320.010 Corporate powers.** A school district shall constitute a body corporate and shall possess all the usual powers of a public corporation, and in that name and style may sue and be sued and transact all business necessary for maintaining school and protecting the rights of the district, and enter into such obligations as are authorized therefor by law. [1969 ex.s. c 223 § 28A.58.010. Prior: (i) 1909 c 97 p 287 § 7, part; RRS §

4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58-.040, part. (ii) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 c 97 p 265 § 2, part. Formerly RCW 28A.58.010, 28.57.135, 28.58.010.]

**28A.320.020 Liability for debts and judgments.** Every school district shall be liable for any debts legally due, and for judgments against the district, and such district shall pay any such judgment or liability out of the proper school funds to the credit of the district. [1969 ex.s. c 223 § 28A.58.020. Prior: 1909 c 97 p 287 § 4; RRS § 4779; prior: 1897 c 118 § 41; 1890 p 365 § 27. Formerly RCW 28A.58.020, 28.58.020.]

**28A.320.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration.** The board of directors of any school district may accept, receive and administer for scholarship and student aid purposes such gifts, grants, conveyances, devises and bequests of personal or real property, in trust or otherwise, for the use or benefit of the school district or its students; and sell, lease, rent or exchange and invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof, if any, for the foregoing purposes; and enter into contracts and adopt regulations deemed necessary by the board to provide for the receipt and expenditure of the foregoing. [1974 ex.s. c 8 § 1. Formerly RCW 28A.58.030.]

**28A.320.040 Bylaws for board and school government.** Every board of directors shall have power to make such bylaws for their own government, and the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this title, or rules and regulations of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.110. Prior: 1909 c 97 p 287 § 6; RRS § 4781; prior: 1897 c 118 § 43; 1890 p 366 § 29. Formerly RCW 28A.58.110, 28.58.110.]

**28A.320.050 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses.** The actual expenses of school directors in going to, returning from and attending upon directors' meetings or other meetings called or held pursuant to statute shall be paid. Likewise, the expenses of school superintendents and other school representatives chosen by the directors to attend any conferences or meetings or to attend to any urgent business at the behest of the state superintendent of public instruction or the board of directors shall be paid. The board of directors may pay the actual and necessary expenses for travel, lodging and meals a superintendent candidate incurs when he or she attends an employment interview in the school district. The school directors, school superintendents, other school representatives or superintendent candidates may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to

the procedures provided in RCW 43.03.150 through 43.03.210. [1977 c 73 § 1; 1969 ex.s. c 26 § 2; 1969 ex.s. c 223 § 28A.58.310. Prior: 1961 c 268 § 15; prior: 1919 c 90 § 6, part; 1909 c 97 p 287 § 8, part; RRS § 4783, part. Formerly RCW 28A.58.310, 28.58.310.]

**28A.320.060 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.** Any school district board of directors and educational service district board are authorized to purchase insurance to protect and hold personally harmless any director, officer, employee or agent of the respective school district or educational service district from any action, claim or proceeding instituted against him or her arising out of the performance or failure of performance of duties for or employment with such institution and to hold him or her harmless from any expenses connected with the defense, settlement or monetary judgments from such actions. [1990 c 33 § 330; 1975 1st ex.s. c 275 § 116; 1972 ex.s. c 142 § 2. Formerly RCW 28A.58.630.]

**28A.320.070 School district as self-insurer—Authority.** Any school district board of directors is authorized to enter into agreements with the board of directors of other school districts and/or educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 10. Formerly RCW 28A.58.410.]

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

*School districts as self-insurers: RCW 51.14.150 and 51.14.160.*

**28A.320.080 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.310.180(3), or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: **PROVIDED, HOWEVER,** That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: **PROVIDED FURTHER,** That the joint purchasing agency

shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: **PROVIDED,** That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter 28A.505 RCW. [1990 c 33 § 331; 1986 c 77 § 1; 1983 c 125 § 1; 1981 c 308 § 1; 1979 ex.s. c 66 § 2; 1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.58.107, 28.58.100(7), (13) and (14).]

**Severability—1981 c 308:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 308 § 3.]

**Severability—1979 ex.s. c 66:** See note following RCW 28A.310.180.

**28A.320.090 Preparing and distributing information on district's instructional program, operation and maintenance—Limitation.** The board of directors of any school district shall have authority to authorize the expenditure of funds for the purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district: **PROVIDED,** That nothing contained herein shall be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a school district election. [1969 ex.s. c 283 § 11. Formerly RCW 28A.58.610, 28.58.610.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28A.320.100 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation.** Whenever any action, claim or proceeding is instituted

against any director, officer, employee or agent of a school district or educational service district arising out of the performance or failure of performance of duties for, or employment with any such district, the board of directors of the school district or educational service district board, as the case may be, may grant a request by such person that the prosecuting attorney and/or attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the school district's general fund, or in the case of an educational service district, from any appropriation made for the support of the educational service district, to which said person is attached: PROVIDED, That costs of defense and/or judgment against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district. [1990 c 33 § 332; 1975 1st ex.s. c 275 § 115; 1972 ex.s. c 142 § 1. Formerly RCW 28A.58.620.]

**28A.320.110 Information and research services.** For the purpose of obtaining information on school organization, administration, operation, finance and instruction, school districts and educational service districts may contract for or purchase information and research services from public universities, colleges and other public bodies, or from private individuals or agencies. For the same purpose, school districts and educational service district superintendents may become members of any nonprofit organization whose principal purpose is to provide such services. Charges payable for such services and membership fees payable to such organizations may be based on the cost of providing such services, on the benefit received by the participating school districts measured by enrollment, or on any other reasonable basis, and may be paid before, during, or after the receipt of such services or the participation as members of such organizations. [1975 1st ex.s. c 275 § 112; 1971 ex.s. c 93 § 4; 1969 ex.s. c 176 § 142; 1969 ex.s. c 223 § 28A-.58.530. Prior: 1963 c 30 § 1. Formerly RCW 28A.58-.530, 28.58.530.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.320.120 Cooperation with technical colleges—Jurisdiction over property—Administrative charges—Discrimination against employees of technical colleges prohibited—Dispute resolution.** As of May 17, 1991, school districts shall not remove facilities, equipment, or property from the jurisdiction or use of the technical colleges. This shall include direct and indirect funds other than those indirect charges provided for in the 1990–91 appropriations act. School districts shall not increase direct or indirect charges for central district administrative support for technical college programs above the percentage rate charged in the 1990–91 school year. This provision on administrative charges for technical college programs shall apply to any state and federal grants, tuition, and other revenues generated by

technical college programs. School districts and the superintendent of public instruction shall cooperate fully with the technical colleges and the state board for community and technical colleges with regard to the implementation of chapter 238, Laws of 1991. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302. [1991 c 238 § 142.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

## PROGRAM EVALUATION

**28A.320.200 Self-study process by school districts—Requirements—Rules.** (1) Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.305.130(6), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990–91 school year.

(2) Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age.

(3) The self-study process that is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational effort. The primary emphasis throughout the process shall be placed upon:

(a) Achieving educational excellence and equity;

(b) Building stronger links with the community; and

(c) Reaching consensus upon educational expectations through community involvement and corresponding school management.

(4) The state board of education shall adopt rules governing procedural criteria. Such rules should be flexible so as to accommodate local goals and circumstances. The rules may allow for waiver of the self-study for economic reasons and may also allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990–91 period.

(5) The superintendent of public instruction shall provide training to assist districts in their self-studies.

(6) Each district shall report every two years to the superintendent of public instruction on the scheduling and implementation of their self-study activities. The report shall include information about how the district

and each school within the district have addressed the issue of class size and staffing patterns. [1990 c 33 § 333; 1989 c 83 § 1; 1988 c 256 § 2; 1985 c 349 § 2. Formerly RCW 28A.58.085.]

**Severability—1985 c 349:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 349 § 9.]

**28A.320.210 Student learning objectives—Program identifying and establishing, scope—Review.** Every school district board of directors, being accountable to the citizens within its district as to the education offered to the students therein, shall include as part of the self-study procedures required under RCW 28A.320.200, the development of a program identifying student learning objectives for their district in all courses of study included in the school district programs: PROVIDED, That each school within the district, as a part of the self-study process, shall review the district learning objectives for each course of study and may identify additional or special learning objectives which are applicable to the particular school. In developing a program to identify student learning objectives, or in reviewing a student learning objectives program already established, districts are encouraged to consider the activities, developments, and results of the work of the temporary committee on the assessment and accountability of educational outcomes. [1990 c 33 § 334; 1988 c 256 § 1; 1987 c 505 § 9; 1986 c 137 § 1; 1984 c 278 § 3; 1977 ex.s. c 305 § 1; 1975-'76 2nd ex.s. c 90 § 1. Formerly RCW 28A.58.090.]

**Severability—1984 c 278:** See note following RCW 28A.185.010. *Summary of program objectives to be included in guide: RCW 28A.150.230.*

**28A.320.220 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.320.230 Instructional materials—Instructional materials committee.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure

the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase. [1989 c 371 § 1; 1979 ex.s. c 134 § 2; 1975 1st ex.s. c 275 § 109; 1971 c 48 § 29; 1969 ex.s. c 223 § 28A.58.103. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.103, 28.58.100(8) and (9).]

**Severability—1971 c 48:** See note following RCW 28A.305.040. *Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.*

*Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.335.180.*

**28A.320.240 Operation and stocking of libraries.** Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule or regulation of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.104. Prior: (i) 1909 c 97 p 299 § 7; RRS § 4817. Formerly RCW 28.63.040. (ii) 1909 c 97 p 302 § 7; RRS § 4829. Formerly RCW 28A.58.104, 28.63.042.]

## DEPOSIT, INVESTMENT, AND USE OF PROCEEDS

**28A.320.300 Investment of funds, including funds received by ESD—Authority—Procedure.** Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee, officer, or agent of the common school district or the educational service district to direct and authorize, the county treasurer to invest funds described in RCW 28A.320.310 and 28A.320.320 and funds from state and federal sources as are then or thereafter received by the educational service district, and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW 28A.320.310, 28A.320.320, or 36.29.020 as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an educational service district pursuant to this section may be redelegated pursuant to RCW 28A.310.220. [1990 c 33 § 335; 1982 c 191 § 5; 1975 c 47 § 1. Formerly RCW 28A.58.430.]

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

**Transportation vehicle fund—Deposits in—Use—Rules for establishment and use:** RCW 28A.160.130.

**28A.320.310 Investment of idle building funds—Restrictions.** The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the capital projects fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds in United States securities, as hereinafter specified after and pursuant to a resolution adopted by the board, authorizing and directing the county treasurer, as ex officio the treasurer of said district, to invest or reinvest, said moneys or any designated amount thereof in United States securities and specifying the type or character of the United States securities in which said moneys shall be invested: **PROVIDED**, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the capital projects fund of the district in the county treasurer's office. If in the judgment of the board it shall be necessary to redeem or to sell any of the purchased securities before

their ultimate maturity date, the board may, by resolution, direct the county treasurer to cause such redemption to be had at the "Redemption Value" of said securities or to sell said bonds and securities at not less than market value and accrued interest. The foregoing "securities" shall include United States bonds, federal treasury notes and treasury bonds and United States certificates of indebtedness and other federal securities which may, during the life of this statute, come within the terms of this section. [1990 c 33 § 336; 1985 c 7 § 95; 1971 c 8 § 4. Prior: 1945 c 29 § 1. Formerly RCW 28A.58.435.]

**Severability—1971 c 8:** "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 8 § 7.]

**School funds enumerated—Deposits—Uses:** RCW 28A.320.330.

**28A.320.320 Investment of funds of district not needed for immediate necessities—Service fee.** The county treasurer, or the trustee, guardian, or any other custodian of any school fund, when authorized to do so by the board of directors of any school district, shall invest or reinvest any school funds of such district in investment deposits in any qualified public depository, or any obligations, securities, certificates, notes, bonds, or short term securities or obligations, of the United States. The county treasurer shall have the power to select the particular investment in which said funds may be invested. All earnings and income from such investments shall inure to the benefit of any school fund designated by the board of directors of the school district which such board may lawfully designate: **PROVIDED**, That any interest or earnings being credited to a fund different from that which earned the interest or earnings shall only be expended for instructional supplies, equipment or capital outlay purposes. This section shall apply to all funds which may be lawfully so invested or reinvested which in the judgment of the school board are not required for the immediate necessities of the district.

Five percent of the interest or earnings, with an annual minimum of ten dollars or annual maximum of fifty dollars, on any transactions authorized by each resolution of the board of school directors shall be paid as an investment service fee to the office of county treasurer when the interest or earnings becomes available to the school district. [1983 c 66 § 1; 1969 ex.s. c 223 § 28A.58.440. Prior: 1965 c 111 § 1; 1961 c 123 § 1. Formerly RCW 28A.58.440, 28.58.440.]

**Severability—1983 c 66:** See note following RCW 39.58.010.

**Investment of idle building funds—1945 act:** 1945 c 29 § 1.

**School funds enumerated—Deposits—Uses:** RCW 28A.320.330.

**28A.320.330 School funds enumerated—Deposits—Uses.** School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, and earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW. [1990 c 33 § 337; 1983 c 59 § 13; 1982 c 191 § 6; 1981 c 250 § 2. Formerly RCW 28A.58.441.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

**Effective date—1981 c 250:** See note following RCW 28A.335.060.

## ELECTORS—QUALIFICATIONS, VOTING PLACE, AND SPECIAL MEETINGS

**28A.320.400 Elections—Qualifications of electors—Voting place.** Qualifications of electors at all school elections shall be the same as at a general state or county election. Except as otherwise provided by law, only those electors residing within the district shall be entitled to vote, and an elector may vote only at the polling place designated by the proper election official. [1969 ex.s. c 223 § 28A.58.520. Prior: 1941 c 12 § 1; Rem. Supp. 1941 § 5025-1. Formerly RCW 28A.58-.520, 28.58.520.]

**28A.320.410 Elections—Elections to be conducted according to Title 29 RCW.** All school district elections, regular or special, shall be conducted according to the election laws of the state as contained in Title 29 RCW, and in the event of a conflict as to the application of the laws of this title or Title 29 RCW, the latter shall prevail. [1969 ex.s. c 223 § 28A.58.521. Prior: 1965 c 123 § 8. Formerly RCW 28A.58.521, 28.58.521.]

**28A.320.420 Special meetings of voters—Authorized—Purpose.** Any board of directors at its discretion may, and, upon a petition of a majority of the legal voters of their district, shall call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any schoolhouse site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more schoolhouses or school facilities; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library. [1982 c 158 § 4; 1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28A.58.370, 28.58.370.]

**Severability—1982 c 158:** See note following RCW 28A.150.220.

**28A.320.430 Special meetings of voters—Place, notice, procedure, record.** All such special meetings shall be held at such schoolhouse or place as the board of directors may determine. The voting shall be by ballot, the

ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the school district superintendent, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The school district superintendent shall be the secretary of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the meeting: **PROVIDED**, That in the absence of one or all of said officials, the qualified electors present may elect a chairman or secretary, or both chairman and secretary, of said meeting as occasion may require, from among their number. The secretary of the meeting shall make a record of the proceedings of the meeting, and when the secretary of such meeting has been elected by the qualified voters present, he or she shall within ten days thereafter, file the record of the proceedings, duly certified, with the superintendent of the district, and said records shall become a part of the records of the district, and be preserved as other records. [1990 c 33 § 338; 1969 ex.s. c 223 § 28A.58.380. Prior: 1909 c 97 p 350 § 2; RRS § 5029; prior: 1897 c 118 § 157. Formerly RCW 28A.58.380, 28.58.380, 28.58.390, part.]

**28A.320.440 Special meetings of voters—Directors to follow electors' decision.** It shall be the duty of every board of directors to carry out the directions of the electors of their districts as expressed at any such meeting. [1969 ex.s. c 223 § 28A.58.390. Prior: 1909 c 97 p 350 § 3; RRS § 5030; prior: 1897 c 118 § 158. Formerly RCW 28A.58.390, 28.58.390.]

#### SUMMER SCHOOL, NIGHT SCHOOL, EXTRACURRICULAR ACTIVITIES, AND ATHLETICS

**28A.320.500 Summer and/or other student vacation period programs—Authorized—Tuition and fees.** Every school district board of directors is authorized to establish and operate summer and/or other student vacation period programs and to assess such tuition and special fees as it deems necessary to offset the maintenance and operation costs of such programs in whole or part. A summer and/or other student vacation period program may consist of such courses and activities as the school district board shall determine to be appropriate: **PROVIDED**, That such courses and activities shall not conflict with the provisions of RCW 28A.305.130. Attendance shall be voluntary. [1990 c 33 § 339; 1974 ex.s. c 161 § 1. Formerly RCW 28A.58.080.]

**28A.320.510 Night schools, summer schools, meetings, use of facilities for.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Authorize school facilities to be used for night schools and establish and maintain the same whenever deemed advisable;

(2) Authorize school facilities to be used for summer schools or for meetings, whether public, literary, scientific, religious, political, mechanical, agricultural or whatever, upon approval of the board under such rules or regulations as the board of directors may adopt, which rules or regulations may require a reasonable rental for the use of such facilities. [1969 ex.s. c 223 § 28A.58.105. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.105, 28.58.100(10) and (12).]

#### Chapter 28A.325

#### ASSOCIATED STUDENT BODIES

##### Sections

- 28A.325.010 Fees for optional noncredit extracurricular events—Disposition.
- 28A.325.020 Associated student bodies—Powers and responsibilities affecting.
- 28A.325.030 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.

**28A.325.010 Fees for optional noncredit extracurricular events—Disposition.** The board of directors of any common school district may establish and collect a fee from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the district which is of a cultural, social, recreational, or athletic nature: **PROVIDED**, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees and may likewise waive or reduce such fees for nonstudents of the age of sixty-five or over who, by reason of their low income, would have difficulty in paying the entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. Fees collected pursuant to this section shall be deposited in the associated student body program fund of the school district, and may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the activities and programs of associated student bodies. [1977 ex.s. c 170 § 1; 1975 1st ex.s. c 284 § 1. Formerly RCW 28A.58.113.]

**Severability—1975 1st ex.s. c 284:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of its provisions to other persons or circumstances is not affected." [1975 1st ex.s. c 284 § 4.]

**28A.325.020 Associated student bodies—Powers and responsibilities affecting.** As used in this section, an

"associated student body" means the formal organization of the students of a school formed with the approval of and regulation by the board of directors of the school district in conformity to the rules and regulations promulgated by the superintendent of public instruction: PROVIDED, That the board of directors of a school district may act or delegate the authority to an employee of the district to act as the associated student body for any school plant facility within the district containing no grade higher than the sixth grade.

The superintendent of public instruction, after consultation with appropriate school organizations and students, shall promulgate rules and regulations to designate the powers and responsibilities of the boards of directors of the school districts of the state of Washington in developing efficient administration, management, and control of moneys, records, and reports of the associated student bodies organized in the public schools of the state. [1984 c 98 § 1; 1975 1st ex.s. c 284 § 3; 1973 c 52 § 1. Formerly RCW 28A.58.115.]

**Severability**—1975 1st ex.s. c 284: See note following RCW 28A.325.010.

**28A.325.030 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.** There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.325.020. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW 28A.325.020 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.320.320 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.350 RCW: PROVIDED, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW

43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

Nothing in this section shall prevent those portions of student-generated moneys in the associated student body program fund, budgeted or otherwise, which constitute bona fide voluntary donations and are identified as donations at the time of collection from being used for such scholarship, student exchange and charitable purposes as the appropriate governing body representing the associated student body shall determine, and for such purposes, said moneys shall not be deemed public moneys under section 7, Article VIII, of the state Constitution.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: PROVIDED, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service. [1990 c 33 § 340; 1984 c 98 § 2; 1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2. Formerly RCW 28A.58.120.]

**Severability**—1982 c 231: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 231 § 2.]

**Severability**—1975 1st ex.s. c 284: See note following RCW 28A.325.010.

*Establishment of associated student body fund: RCW 28A.320.330.*

## Chapter 28A.330

### PROVISIONS APPLICABLE TO SCHOOL DISTRICTS

#### Sections

#### PROVISIONS APPLICABLE ONLY TO FIRST CLASS DISTRICTS

- 28A.330.010 Board president, vice president or president pro tempore—Secretary.
- 28A.330.020 Certain board elections, manner and vote required—Selection of personnel, manner.
- 28A.330.030 Duties of president.
- 28A.330.040 Duties of vice president.
- 28A.330.050 Duties of superintendent as secretary of the board.
- 28A.330.060 Superintendent's bond and oath.
- 28A.330.070 Office of board—Records available for public inspection.
- 28A.330.080 Payment of claims—Signing of warrants.
- 28A.330.090 Auditing committee and expenditures.
- 28A.330.100 Additional powers of board.
- 28A.330.110 Insurance reserve—Funds.

#### PROVISIONS APPLICABLE ONLY TO SECOND CLASS DISTRICTS

- 28A.330.200 Organization of board—Assumption of superintendent's duties by board member, when.
- 28A.330.210 Notice to ESD superintendent of change of chairman or superintendent.

28A.330.220 Attorney may be employed.  
 28A.330.230 Drawing and issuance of warrants.  
 28A.330.240 Employment contracts.

### PROVISIONS APPLICABLE ONLY TO FIRST CLASS DISTRICTS

**28A.330.010 Board president, vice president or president pro tempore—Secretary.** At the first meeting of the members of the board they shall elect a president and vice president from among their number who shall serve for a term of one year or until their successors are elected. In the event of the temporary absence or disability of both the president and vice president, the board of directors may elect a president pro tempore who shall discharge all the duties of president during such temporary absence or disability.

The superintendent of such school district shall act as secretary to the board in accordance with the provisions of RCW 28A.400.030. [1990 c 33 § 341; 1969 ex.s. c 223 § 28A.59.030. Prior: 1953 c 111 § 6; prior: 1909 c 97 p 290 § 3, part; RRS § 4792, part. Formerly RCW 28A.59.030, 28.62.030.]

**28A.330.020 Certain board elections, manner and vote required—Selection of personnel, manner.** The election of the officers of the board of directors or to fill any vacancy as provided in RCW 28A.315.530, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he or she receives a majority vote of all the members of the board. Selection of other certificated and noncertificated personnel shall be made in such manner as the board shall determine. [1990 c 33 § 342; 1969 ex.s. c 223 § 28A.59.040. Prior: 1909 c 97 p 290 § 4; RRS § 4793. Formerly RCW 28A.59.040, 28.62.040.]

**28A.330.030 Duties of president.** It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe. [1969 ex.s. c 223 § 28A.59.050. Prior: 1909 c 97 p 290 § 5; RRS § 4794. Formerly RCW 28A.59.050, 28.62.050.]

**28A.330.040 Duties of vice president.** It shall be the duty of the vice president to perform all the duties of president in case of the president's absence or disability. [1990 c 33 § 343; 1969 ex.s. c 223 § 28A.59.060. Prior: 1909 c 97 p 291 § 6; RRS § 4795. Formerly RCW 28A.59.060, 28.62.060.]

**28A.330.050 Duties of superintendent as secretary of the board.** In addition to the duties as prescribed in RCW 28A.400.030, the school district superintendent, as secretary of the board, may be authorized by the board to act as business manager, purchasing agent, and/or superintendent of buildings and janitors, and charged with the special care of school buildings and other property of the district, and he or she shall perform other duties as the board may direct. [1990 c 33 § 344; 1969 ex.s. c 223 § 28A.59.070. Prior: 1919 c 90 §

8; 1909 c 97 p 291 § 7; RRS § 4796. Formerly RCW 28A.59.070, 28.62.070.]

**28A.330.060 Superintendent's bond and oath.** Before entering upon the discharge of the superintendent's duties, the superintendent as secretary of the board shall give bond in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he or she will support the Constitution of the United States and of the state of Washington and faithfully perform the duties of the office, a copy of which oath or affirmation shall be filed with the educational service district superintendent. [1990 c 33 § 345; 1975 1st ex.s. c 275 § 117; 1971 c 48 § 33; 1969 ex.s. c 223 § 28A.59.080. Prior: 1909 c 97 p 291 § 8; RRS § 4797. Formerly RCW 28A.59.080, 28.62.080.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.330.070 Office of board—Records available for public inspection.** The board of directors shall maintain an office where all records, vouchers and other important papers belonging to the board may be preserved. Such records, vouchers, and other important papers at all reasonable times shall be available for public inspection. The regular meetings shall be held within the district boundaries. [1989 c 232 § 1; 1969 ex.s. c 223 § 28A.59.100. Prior: 1909 c 97 p 291 § 10; RRS § 4799; prior: 1897 c 118 § 87; 1890 p 389 § 14. Formerly RCW 28A.59.100, 28.62.100.]

**28A.330.080 Payment of claims—Signing of warrants.** Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW 28A.330.090, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. [1990 c 33 § 346; 1969 ex.s. c 223 § 28A.59.110. Prior: 1909 c 97 p 292 § 11; RRS § 4800. Formerly RCW 28A.59.110, 28.62.110.]

**28A.330.090 Auditing committee and expenditures.** All accounts shall be audited by a committee of board members chosen in such manner as the board so determines to be styled the "auditing committee," and, except as otherwise provided by law, no expenditure greater than three hundred dollars shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school

fund except on a recorded affirmative vote of a majority of all members of the board: PROVIDED, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department as otherwise provided in RCW 28A.335.190. [1990 c 33 § 347; 1983 c 56 § 9; 1975 1st ex.s. c 275 § 118; 1971 c 48 § 34; 1969 ex.s. c 223 § 28A.59.150. Prior: 1909 c 97 p 292 § 14; RRS § 4803. Formerly RCW 28A.59.150, 28.62.150, 28.62.160.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.330.100 Additional powers of board.** Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her; and to fix his or her duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the

premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; the school district medical inspector or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1991 c 116 § 17; 1990 c 33 § 348; 1983 c 2 § 7. Prior: 1982 c 191 § 11; 1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180; prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28A.59.180, 28.62-.180, 28.31.070.]

**Severability**—1983 c 2: See note following RCW 18.71.030.

**Effective date**—**Severability**—1982 c 191: See notes following RCW 28A.315.270.

**Severability**—1982 c 158: See note following RCW 28A.150.220.

**28A.330.110 Insurance reserve—Funds.** School districts of the first class, when in the judgment of the board of directors it be deemed expedient, shall have power to create and maintain an insurance reserve for said districts, to be used to meet losses specified by the board of directors of the school districts.

Funds required for maintenance of such an insurance reserve shall be budgeted and allowed as are other moneys required for the support of the school district. [1983 c 59 § 16; 1982 c 191 § 12; 1969 ex.s. c 223 § 28A.59-.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28A.59-.185, 28.59.030.]

**Application**—**Effective date**—**Severability**—1983 c 59: See notes following RCW 28A.505.010.

**Effective date**—**Severability**—1982 c 191: See notes following RCW 28A.315.270.

#### PROVISIONS APPLICABLE ONLY TO SECOND CLASS DISTRICTS

**28A.330.200 Organization of board—Assumption of superintendent's duties by board member, when.** The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW 28A.315.500. At the first meeting of the members of the board they shall elect a chair from among their number who shall serve for a term of one year or until

his or her successor is elected. The school district superintendent as defined in RCW 28A.150.080 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district. [1990 c 33 § 349; 1988 c 187 § 2; 1975 c 43 § 14; 1969 ex.s. c 223 § 28A.60.010. Prior: 1953 c 111 § 1; prior: (i) 1909 c 97 p 298 § 5; RRS § 4815. (ii) 1909 c 97 p 301 § 5; RRS § 4827. Formerly RCW 28A.60.010, 28.63.010.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.330.210 Notice to ESD superintendent of change of chairman or superintendent.** Every school district superintendent in districts of the second class shall within ten days after any change in the office of chair or superintendent, notify the educational service district superintendent of such change. [1990 c 33 § 350; 1975-'76 2nd ex.s. c 15 § 11. Prior: 1975 1st ex.s. c 275 § 119; 1975 c 43 § 15; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070; prior: 1909 c 97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28A.60.070, 28.63.070.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.330.220 Attorney may be employed.** The board of directors of every second class district in addition to their other powers are authorized to employ an attorney and to prescribe the attorney's duties and fix the attorney's compensation. [1990 c 33 § 351; 1975 c 43 § 19; 1971 c 8 § 5. Prior: 1967 c 220 § 1. Formerly RCW 28A.60.310, 28.63.340.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**Severability—1971 c 8:** See note following RCW 28A.320.310.

**28A.330.230 Drawing and issuance of warrants.** Second class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the chair of the board and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the chair of the board personally imposes too great a task on the chair, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. [1990 c 33 § 352; 1983 c 56 § 10; 1975 c 43 § 21; 1973 c 111 § 1. Formerly RCW 28A.60.328.]

**Severability—1983 c 56:** See note following RCW 28A.195.010.

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**Severability—1973 c 111:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 111 § 6.]

**28A.330.240 Employment contracts.** The board of directors of each second class school district shall adopt a written policy governing procedures for the letting of any employment contract authorized under RCW 42-.23.030. This policy shall include provisions to ensure fairness and the appearance of fairness in all matters pertaining to employment contracts so authorized. [1989 c 263 § 2. Formerly RCW 28A.60.360.]

**Severability—1989 c 263:** See note following RCW 42.23.030.

## Chapter 28A.335

### SCHOOL DISTRICTS' PROPERTY ACQUISITION, OPERATION, CLOSURE, AND DISPOSAL

#### Sections

- 28A.335.010 School buildings, maintenance, furnishing and insuring.
- 28A.335.020 School closures—Policy of citizen involvement required—Summary of effects—Hearings—Notice.
- 28A.335.030 Emergency school closures exempt from RCW 28A.335.020.
- 28A.335.040 Surplus school property, rental, lease, or use of—Authorized—Limitations.
- 28A.335.050 Surplus school property, rental, lease or use of—Joint use—Compensation—Conditions generally.
- 28A.335.060 Surplus school property—Rental, lease or use of—Disposition of moneys received from.
- 28A.335.070 Surplus school property, rental, lease or use of—Existing contracts not impaired.
- 28A.335.080 Surplus school property, rental, lease or use of—Community use not impaired.
- 28A.335.090 Conveyance and acquisition of property—Management.
- 28A.335.100 School district associations, right to mortgage or convey money security interest in association property—Limitations.
- 28A.335.110 Real property—Annexation to city or town.
- 28A.335.120 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.
- 28A.335.130 Real property—Sale—Use of proceeds.
- 28A.335.140 Expenditure of funds on county, city building authorized—Conditions.
- 28A.335.150 Permitting use and rental of playgrounds, athletic fields or athletic facilities.
- 28A.335.160 Joint educational facilities, services or programs—Rules and regulations—Apportionment of attendance credit.
- 28A.335.170 Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment.
- 28A.335.180 Surplus texts and other educational aids, notice of availability—Student priority as to texts.
- 28A.335.190 Advertising for bids—Competitive bid procedures—Telephone or written quotation solicitation, limitations—Emergencies.
- 28A.335.200 Conditional sales contracts for acquisition of property or property rights.
- 28A.335.210 Purchase of works of art—Procedure.
- 28A.335.220 Eminent domain.

- 28A.335.230 Vacant school plant facilities—Lease by contiguous district, when required—Eligibility for matching funds.
- 28A.335.240 Schoolhouses, teachers' cottages—Purchase of realty for district purposes.
- 28A.335.250 School property used for public purposes.
- 28A.335.260 School property used for public purposes—Community buildings.
- 28A.335.270 School property used for public purposes—Special state commission to pass on plans.
- 28A.335.280 School property used for public purposes—Limit on expenditures.
- 28A.335.290 Housing for superintendent—Authorized—Limitation.
- 28A.335.300 Playground matting.

**28A.335.010 School buildings, maintenance, furnishing and insuring.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Cause all school buildings to be properly heated, lighted and ventilated and maintained in a clean and sanitary condition; and

(2) Maintain and repair, furnish and insure such school buildings. [1969 ex.s. c 223 § 28A.58.102. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.102, 28.58.100(3), part, and (4) part.]

*Energy audits and energy capital improvements: RCW 28A.320.330.*

**28A.335.020 School closures—Policy of citizen involvement required—Summary of effects—Hearings—Notice.** Before any school closure, a school district board of directors shall adopt a policy regarding school closures which provides for citizen involvement before the school district board of directors considers the closure of any school for instructional purposes. The policy adopted shall include provisions for the development of a written summary containing an analysis as to the effects of the proposed school closure. The policy shall also include a requirement that during the ninety days before a school district's final decision upon any school closure, the school board of directors shall conduct hearings to receive testimony from the public on any issues related to the closure of any school for instructional purposes. The policy shall require separate hearings for each school which is proposed to be closed.

The policy adopted shall provide for reasonable notice to the residents affected by the proposed school closure. At a minimum, the notice of any hearing pertaining to a proposed school closure shall contain the date, time, place, and purpose of the hearing. Notice of each hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the area where the school, subject to closure, is located. The last notice of hearing shall be published not later than seven days immediately before the final hearing. [1983 c 109 § 2. Formerly RCW 28A.58.031.]

*Application of RCW 43.21C.030(2)(c) to school closures: RCW 43.21C.038.*

**28A.335.030 Emergency school closures exempt from RCW 28A.335.020.** A school district may close a school

for emergency reasons, as set forth in RCW 28A.150.290(2) (a) and (b), without complying with the requirements of RCW 28A.335.020. [1990 c 33 § 353; 1983 c 109 § 3. Formerly RCW 28A.58.032.]

**28A.335.040 Surplus school property, rental, lease, or use of—Authorized—Limitations.** (1) Every school district board of directors is authorized to permit the rental, lease, or occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: PROVIDED, That the leasing or renting or use of such property is for a lawful purpose and does not interfere with conduct of the district's educational program and related activities: PROVIDED FURTHER, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for school purposes in the future except in such cases where, due to proximity to an international airport, land use has been so permanently altered as to preclude the possible use of the property for a school housing students and the school property has been heavily impacted by surrounding land uses so that a school housing students would no longer be appropriate in that area.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.335.050 and 28A.335.090 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall publish a written notice in a newspaper of general circulation in the school district for rentals or leases totalling ten thousand dollars or more in value. School districts shall not rent or lease the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies. [1991 c 116 § 12. Prior: 1990 c 96 § 1; 1990 c 33 § 354; 1981 c 306 § 2; 1980 c 115 § 2. Formerly RCW 28A.58.033.]

*Severability—1981 c 306: See note following RCW 28A.335.180.*

*Severability—1980 c 115: See note following RCW 28A.335.090.*

**28A.335.050 Surplus school property, rental, lease or use of—Joint use—Compensation—Conditions generally.** (1) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.335.040 may include the joint use of school district property, which is in part used for school purposes, by any combination of persons, corporations or government

entities for other than common school purposes: PROVIDED, That any such joint use shall comply with existing local zoning ordinances.

(2) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.335.040 shall be conditioned on the payment by all users, lessees or tenants, assessed on a basis that is non-discriminatory within classes of users, of such reasonable compensation and under such terms as regulations adopted by the board of directors shall provide.

(3) Nothing in RCW 28A.335.040 and 28A.335.090 shall prohibit a school board of directors and a lessee or tenant from agreeing to conditions to the lease otherwise lawful, including conditions of reimbursement or partial reimbursement of costs associated with the lease or rental of the property. [1990 c 33 § 355; 1980 c 115 § 3. Formerly RCW 28A.58.034.]

**Severability**—1980 c 115: See note following RCW 28A.335.090.

**28A.335.060 Surplus school property—Rental, lease or use of—Disposition of moneys received from.** Each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property as follows:

(1) Moneys derived from real property shall be deposited into the district's debt service fund and/or capital projects fund except for moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which moneys shall be deposited in the district's general fund;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund. [1989 c 86 § 2; 1983 c 59 § 15; 1982 c 191 § 4; 1981 c 250 § 4; 1980 c 115 § 4. Formerly RCW 28A.58.035.]

**Application—Effective date—Severability**—1983 c 59: See notes following RCW 28A.505.010.

**Effective date—Severability**—1982 c 191: See notes following RCW 28A.315.270.

**Effective date**—1981 c 250: "The effective date of this amendatory act shall be September 1, 1981." [1981 c 250 § 5.]

**Severability**—1980 c 115: See note following RCW 28A.335.090.

**School funds enumerated—Deposits—Uses:** RCW 28A.320.330.

**28A.335.070 Surplus school property, rental, lease or use of—Existing contracts not impaired.** The provisions of contracts for the use, rental or lease of school district real property executed prior to June 12, 1980, which were lawful at the time of execution shall not be impaired by such new terms and conditions to the rental, lease or occasional use of school property as may now be established by RCW 28A.335.040, 28A.335.050, and 28A.335.090. [1990 c 33 § 356; 1980 c 115 § 5. Formerly RCW 28A.58.036.]

**Severability**—1980 c 115: See note following RCW 28A.335.090.

**28A.335.080 Surplus school property, rental, lease or use of—Community use not impaired.** Nothing in

RCW 28A.335.040 through 28A.335.070 shall preclude school district boards of directors from making available school property for community use in accordance with the provisions of RCW 28A.335.150, 28A.320.510, or 28A.335.250, and school district administrative policy governing such use. [1990 c 33 § 357; 1980 c 115 § 6. Formerly RCW 28A.58.037.]

**Severability**—1980 c 115: See note following RCW 28A.335.090.

**28A.335.090 Conveyance and acquisition of property—Management.** The board of directors of each school district shall have exclusive control of all school property, real or personal, belonging to the district; said board shall have power, subject to RCW 28A.335.120, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW 28A.335.120, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent, lease or sell the same, and all conveyances of real estate made to the district shall vest title in the district. [1990 c 33 § 358; 1981 c 306 § 3; 1980 c 115 § 1; 1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693–25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28A.58.040, 28.58.040.]

**Severability**—1981 c 306: See note following RCW 28A.335.180.

**Severability**—1980 c 115: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 115 § 9.]

**28A.335.100 School district associations, right to mortgage or convey money security interest in association property—Limitations.** Any association established by school districts pursuant to the interlocal cooperation act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies, materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is hereby authorized, subject to rules and regulations of the state board of education, to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: PROVIDED, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school districts and any creditor of such association shall be entitled to look

for payment of any obligation incurred by such association solely to the assets and properties of such association. [1975-'76 2nd ex.s. c 23 § 1. Formerly RCW 28A.58.0401.]

**28A.335.110 Real property—Annexation to city or town.** In addition to other powers and duties as provided by law, every board of directors, if seeking to have school property annexed to a city or town and if such school property constitutes the whole of such property in the annexation petition, shall be allowed to petition therefor under RCW 35.13.125 and 35.13.130. [1971 c 69 § 3. Formerly RCW 28A.58.044.]

**Severability—1971 c 69:** See note following RCW 35.13.125.

**28A.335.120 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.** (1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board of directors and no sale shall take place if the sale price

would be less than ninety percent of the average of the three appraisals made by the brokers or professionally designated real estate appraisers: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the average reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: PROVIDED, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales. [1991 c 116 § 13; 1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28A.58.045, 28.58.045.]

**Severability—1981 c 306:** See note following RCW 28A.335.180.

**28A.335.130 Real property—Sale—Use of proceeds.** The proceeds from any sale of school district real property by a board of directors shall be deposited to the debt service fund and/or the capital projects fund, except for amounts required to be expended for the costs associated with the sale of such property, which moneys may be deposited into the fund from which the expenditure was incurred. [1983 c 59 § 14; 1981 c 250 § 3; 1975-'76 2nd ex.s. c 80 § 1; 1975 1st ex.s. c 243 § 2. Formerly RCW 28A.58.0461.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Effective date—1981 c 250:** See note following RCW 28A.335.060.

**School funds enumerated—Deposits—Uses:** RCW 28A.320.330.

**28A.335.140 Expenditure of funds on county, city building authorized—Conditions.** Notwithstanding any other provision of law, every school district board of directors may expend local funds held for capital projects

or improvements for improvements on any building owned by a city or county in which the district or any part thereof is located if an agreement is entered into with such city or county whereby the school district receives a beneficial use of such building commensurate to the amount of funds expended thereon by the district. [1971 ex.s. c 238 § 3. Formerly RCW 28A.58.047.]

**28A.335.150 Permitting use and rental of playgrounds, athletic fields or athletic facilities.** Boards of directors of school districts are hereby authorized to permit the use of, and to rent school playgrounds, athletic fields, or athletic facilities, by, or to, any person or corporation for any athletic contests or athletic purposes.

Permission to use and/or rent said school playgrounds, athletic fields, or athletic facilities shall be for such compensation and under such terms as regulations of the board of directors adopted from time to time so provide. [1969 ex.s. c 223 § 28A.58.048. Prior: (i) 1935 c 99 § 1; Rem. Supp. § 4776-1. Formerly RCW 28.58-.048. (ii) 1935 c 99 § 2; RRS § 4776-2. Formerly RCW 28A.58.048, 28.58.050.]

**28A.335.160 Joint educational facilities, services or programs—Rules and regulations—Apportionment of attendance credit.** Any school district may cooperate with one or more school districts in the following:

(1) The joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction.

(2) The joint maintenance and operation of educational programs or services (a) either as a part of the operation of a joint facility or otherwise, (b) either on a full or part time attendance basis, and (c) either on a regular one hundred eighty day school year or extended school year: PROVIDED, That any such joint program or service must be operated pursuant to a written agreement approved by the superintendent of public instruction pursuant to rules and regulations promulgated therefor. In establishing rules and regulations the state superintendent shall consider, among such other factors as the superintendent deems appropriate, the economic feasibility of said services and programs, the educational and administrative scope of said agreement and the need for said programs or services.

Notwithstanding any other provision of the law, the state superintendent of public instruction shall establish rules and regulations for the apportionment of attendance credits for such students as are enrolled in a jointly operated facility or program, including apportionment for approved part time and extended school year attendance. [1990 c 33 § 359; 1969 c 130 § 12. Formerly RCW 28A.58.075.]

*Conditional sales contracts for acquisition of property or property rights: RCW 28A.335.200.*

*Education of handicapped children: RCW 28A.155.040.*

**28A.335.170 Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment.** The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment;

(2) To have maintained and repaired security systems, computers and other equipment; and

(3) To provide pupil transportation services.

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

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.505.140 and 28A.310.330.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW 28A.400.300 and 28A.405.210. [1990 c 33 § 360; 1987 c 141 § 1; 1985 c 7 § 93; 1982 c 191 § 3; 1977 ex.s. c 210 § 1. Formerly RCW 28A.58.131.]

**Severability—1987 c 141:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 141 § 3.]

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

**Severability—1977 ex.s. c 210:** "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 210 § 3.]

**28A.335.180 Surplus texts and other educational aids, notice of availability—Student priority as to texts.** Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing in a newspaper of general circulation in the school district and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or private schools, at depreciated cost or fair market value, whichever is greater: PROVIDED, That students wishing to purchase texts pursuant to RCW 28A.320.230(2) shall have priority as to such texts. Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least thirty days following publication of notice in a newspaper of general circulation in the school district. [1991 c

116 § 1; 1990 c 33 § 361; 1981 c 306 § 1; 1977 ex.s. c 303 § 1. Formerly RCW 28A.02.110.]

**Severability—1981 c 306:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 306 § 5.]

*Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.*

**28A.335.190 Advertising for bids—Competitive bid procedures—Telephone or written quotation solicitation, limitations—Emergencies.** (1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of twenty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: **PROVIDED**, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of seventy-five hundred dollars. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of seventy-five hundred dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from seventy-five hundred dollars up to twenty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of twenty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of seventy-five hundred dollars, shall be on a competitive bid process. All such projects estimated to be less than twenty thousand dollars may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall establish a procedure for securing telephone and/or written quotations from the contractors on the

small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the district. Responsible contractors shall be added to the list at any time they submit a written request. Whenever the estimated cost of a public works project is twenty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: **PROVIDED**, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action. [1990 c 33 § 362; 1985 c 324 § 1; 1980 c 61 § 1; 1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28A.58.135, 28.58.135.]

**28A.335.200 Conditional sales contracts for acquisition of property or property rights.** Any school district may execute an executory conditional sales contract with any other municipal corporation, the state or any of its political subdivisions, the government of the United States or any private party for the purchase of any real or personal property, or property rights, in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters: **PROVIDED**, That if such a proposed contract would result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that

bond issues for capital purposes are submitted to the voters: PROVIDED FURTHER, That any school district may jointly with another school district execute contracts authorized by this section. [1970 ex.s. c 42 § 11; 1969 ex.s. c 223 § 28A.58.550. Prior: 1965 c 62 § 1. Formerly RCW 28A.58.550, 28.58.550.]

**Severability—Effective date—1970 ex.s. c 42:** See notes following RCW 39.36.015.

**Transportation vehicle fund—Deposits in—Use—Rules for establishment and use:** RCW 28A.160.130.

**28A.335.210 Purchase of works of art—Procedure.** The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed in accordance with Article IX, sections 2 and 3 of the state Constitution on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art under this section, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and representatives of school district boards of directors. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose: PROVIDED, That the superintendent of public instruction and the school district board of directors of the districts where the sites are selected shall have the right to:

- (1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;
- (2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;
- (3) Reject the results of the selection process;
- (4) Reject the placement of a completed work or works of art on school district premises if such works are portable.

Rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger

state construction funds available to the local school district. Any works of art rejected under this section shall be applied to the provision of works of art under this chapter, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature.

The executive director of the arts commission, the superintendent of public instruction and the Washington state school directors association shall appoint a study group to review the operations of the one-half of one percent for works of art under this section. [1983 c 204 § 7; 1982 c 191 § 2; 1974 ex.s. c 176 § 5. Formerly RCW 28A.58.055.]

**Implementation—1983 c 204:** "Implementation of section 7 of this 1983 act shall become effective upon approval by the arts commission, the superintendent of public instruction and the Washington state school directors association." [1983 c 204 § 10.] "Section 7 of this 1983 act," was the 1983 c 204 amendment to RCW 28A.58.055, now recodified as RCW 28A.335.210.

**Severability—1983 c 204:** See note following RCW 43.46.090.

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

**Acquisition of works of art for public buildings and lands—Visual arts program established:** RCW 43.46.090.

**Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions:** RCW 43.17.200.

**Purchase of works of art—Interagency reimbursement for expenditure by visual arts program:** RCW 43.17.205.

**State art collection:** RCW 43.46.095.

**28A.335.220 Eminent domain.** The board of directors of any school district may proceed to condemn and appropriate not more than fifteen acres of land for any elementary school purpose; not more than twenty-five acres for any junior high school purpose; not more than forty acres for any senior high school purpose; except as otherwise provided by law, not more than seventy-five acres for any vocational technical school purpose; and not more than fifteen acres for any other school district purpose. Such condemnation proceedings shall be in accordance with chapters 8.16 and 8.25 RCW and such other laws of this state providing for appropriating private property for public use by school districts. [1969 ex.s. c 223 § 28A.58.070. Prior: 1963 c 41 § 1; 1957 c 155 § 1; 1949 c 54 § 1; 1909 c 97 p 289 § 13; Rem. Supp. 1949 § 4788. Formerly RCW 28A.58.070, 28.58.070.]

**28A.335.230 Vacant school plant facilities—Lease by contiguous district, when required—Eligibility for matching funds.** School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhouseed students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction and the state board of education have determined the vacant school plant facilities available in the contiguous district will fulfill the needs of the applicant district in housing unhoused students. In determining whether the contiguous district school plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated. [1987 c 112 § 1. Formerly RCW 28A.47.105.]

*Surplus school property: RCW 28A.335.040 through 28A.335.080.*

**28A.335.240 Schoolhouses, teachers' cottages—Purchase of realty for district purposes.** The board of directors of a second class school district shall build schoolhouses and teachers' cottages when directed by a vote of the district to do so. The board of directors of a second class school district may purchase real property for any school district purpose. [1969 ex.s. c 223 § 28A.60.181. Prior: 1963 c 61 § 1; 1959 c 169 § 1. Formerly RCW 28A.60.181, 28.63.181.]

*Borrowing money, issuing bonds, for schoolhouse sites, playgrounds, erecting buildings and equipping same: RCW 28A.530.010.*

*Real property—Sale—Purchase to relocate and sell buildings: RCW 28A.335.120.*

**28A.335.250 School property used for public purposes.** School boards in each district of the second class may provide for the free, comfortable and convenient use of the school property to promote and facilitate frequent meetings and association of the people in discussion, study, improvement, recreation and other community purposes, and may acquire, assemble and house material for the dissemination of information of use and interest to the farm, the home and the community, and facilities for experiment and study, especially in matters pertaining to the growing of crops, the improvement and handling of livestock, the marketing of farm products, the planning and construction of farm buildings, the subjects of household economies, home industries, good roads, and community vocations and industries; and may call meetings for the consideration and discussion of any such matters, employ a special supervisor, or leader, if need be, and provide suitable dwellings and accommodations for teachers, supervisors and necessary assistants. [1975 c 43 § 16; 1969 ex.s. c 223 § 28A.60.190. Prior: 1913 c 129 § 1; RRS § 4837. Formerly RCW 28A.60.190, 28.63.190.]

*Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.*

**28A.335.260 School property used for public purposes—Community buildings.** Each school district of the second class, by itself or in combination with any other district or districts, shall have power, when in the

judgment of the school board it shall be deemed expedient, to reconstruct, remodel, or build schoolhouses, and to erect, purchase, lease or otherwise acquire other improvements and real and personal property, and establish a communal assembly place and appurtenances, and supply the same with suitable and convenient furnishings and facilities for the uses mentioned in RCW 28A.335.250. [1990 c 33 § 363; 1975 c 43 § 17; 1969 ex.s. c 223 § 28A.60.200. Prior: 1913 c 129 § 2; RRS § 4838. Formerly RCW 28A.60.200, 28.63.200.]

*Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.*

**28A.335.270 School property used for public purposes—Special state commission to pass on plans.** Plans of any second class district or combination of districts for the carrying out of the powers granted by RCW 28A.335.250 through 28A.335.280 shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the educational service district superintendent; these to choose one member from such county in which the facilities are proposed to be located, and two members, from the district or districts concerned. [1990 c 33 § 364; 1975-'76 2nd ex.s. c 15 § 12. Prior: 1975 1st ex.s. c 275 § 121; 1975 c 43 § 18; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210; prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28A.60.210, 28.63.210.]

*Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.*

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

*Severability—1971 c 48: See note following RCW 28A.305.040.*

**28A.335.280 School property used for public purposes—Limit on expenditures.** No real or personal property or improvements shall be purchased, leased, exchanged, acquired or sold, nor any schoolhouses built, remodeled or removed, nor any indebtedness incurred or money expended for any of the purposes of RCW 28A.335.250 through 28A.335.280 except in the manner otherwise provided by law for the purchase, lease, exchange, acquisition and sale of school property, the building, remodeling and removing of schoolhouses and the incurring of indebtedness and expenditure of money for school purposes. [1990 c 33 § 365; 1969 ex.s. c 223 § 28A.60.220. Prior: 1913 c 129 § 4; RRS § 4840. Formerly RCW 28A.60.220, 28.63.220.]

**28A.335.290 Housing for superintendent—Authorized—Limitation.** Notwithstanding any other provision of law, any second class school district with an enrollment of three hundred students or less may provide housing for the superintendent of the school district, or any person acting in the capacity of superintendent, by such means and with such moneys as the school district shall determine: PROVIDED, That any second class

school district presently providing such housing may continue to provide the same: **PROVIDED FURTHER**, That if such housing is exempt from real property taxation by virtue of school district ownership, the school district shall charge for such housing, rent at least equal to the amount of real property tax for which such housing would be liable were it not so owned. [1984 c 40 § 10; 1975 1st ex.s. c 41 § 1. Formerly RCW 28A.60.350.]

**Severability**—1984 c 40: See note following RCW 28A.195.050.

**Classes of districts**—*Change of classification delay of authorized: RCW 28A.315.240. generally: RCW 28A.315.230.*

**28A.335.300 Playground matting.** Every school board of directors shall consider the purchase of playground matting manufactured from shredded waste tires in undertaking construction or maintenance of playgrounds. The department of general administration shall upon request assist in the development of product specifications and vendor identification. [1991 c 297 § 18.]

**Captions not law**—1991 c 297: See RCW 43.19A.900.

## Chapter 28A.340

### SMALL HIGH SCHOOL COOPERATIVE PROJECTS

#### Sections

- 28A.340.010 Increased curriculum programs and opportunities.
- 28A.340.020 Eligibility—Participation.
- 28A.340.030 Application—Review by the superintendent of public instruction.
- 28A.340.040 Adoption of salary schedules—Computation of fringe benefits.
- 28A.340.050 Report to the superintendent of public instruction—Report to the legislature.
- 28A.340.060 Rules.
- 28A.340.070 Allocation of state funds for technical assistance—Contracting with agencies for technical assistance.

**28A.340.010 Increased curriculum programs and opportunities.** Eligible school districts as defined under RCW 28A.340.020 are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning. [1990 c 33 § 366; 1988 c 268 § 2. Formerly RCW 28A.100.080.]

**Findings**—1988 c 268: "The legislature finds that partnerships among school districts can: Increase curriculum offerings for students, encourage creative educational programming and staffing, and result in the cost-effective delivery of educational programs. It is the intent of the legislature to establish a program to facilitate and encourage such partnerships among small school districts." [1988 c 268 § 1.]

**Severability**—1988 c 268: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 268 § 12.]

**28A.340.020 Eligibility—Participation.** School districts eligible for funding as a small high school district pursuant to the state operating appropriations act

shall be eligible to participate in a cooperative project: **PROVIDED**, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070. [1990 c 33 § 367; 1988 c 268 § 3. Formerly RCW 28A.100.082.]

**Findings**—**Severability**—1988 c 268: See notes following RCW 28A.340.010.

**28A.340.030 Application—Review by the superintendent of public instruction.** (1) Eligible school districts desiring to form a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070 shall submit to the superintendent of public instruction an application for review as a cooperative project. The application shall include, but not be limited to, the following information:

(a) A description of the cooperative project, including the programs, services, and administrative activities that will be operated jointly;

(b) The improvements in curriculum offerings and educational opportunities expected to result from the establishment of the proposed cooperative project;

(c) A list of any statutory requirements or administrative rules which are considered financial disincentives to the establishment of cooperative projects and which would impede the operation of the proposed cooperative project; and the financial impact to the school districts and the state expected to result by the granting of a waiver from such statutory requirements or administrative rules;

(d) An assessment of community support for the proposed cooperative project, which assessment shall include each community affected by the proposed cooperative project; and

(e) A plan for evaluating the educational and cost-effectiveness of the proposed cooperative project, including curriculum offerings and staffing patterns.

(2) The superintendent of public instruction shall review the application before the applicant school districts may commence the proposed cooperative project.

In reviewing applications, the superintendent shall be limited to: (a) The granting of waivers from statutory requirements, for which the superintendent of public instruction has the express power to implement pursuant to the adoption of rules, or administrative rules that need to be waived in order for the proposed cooperative project to be implemented: **PROVIDED**, That no statutory requirement or administrative rule dealing with health, safety, or civil rights may be waived; and (b) ensuring the technical accuracy of the application.

Any waiver granted by the superintendent of public instruction shall be reviewed and may be renewed by the superintendent every five years subject to the participating districts submitting a new application pursuant to this section.

(3) If additional eligible school districts wish to participate in an existing cooperative project the cooperative

project as a whole shall reapply for review by the superintendent of public instruction. [1990 c 33 § 368; 1988 c 268 § 4. Formerly RCW 28A.100.084.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

**28A.340.040 Adoption of salary schedules—Computation of fringe benefits.** (1) School districts participating in a cooperative project pursuant to RCW 28A.340.030 may adopt identical salary schedules following compliance with chapter 41.59 RCW: PROVIDED, That if the districts participating in a cooperative project adopt identical salary schedules, the participating districts shall be considered a single school district for purposes of establishing compliance with the salary limitations of RCW 28A.400.200(3) but not for the purposes of allocation of state funds.

(2) For purposes of computing fringe benefit contributions for purposes of establishing compliance with RCW 28A.400.200(3)(b), the districts participating in a cooperative project pursuant to RCW 28A.340.030 may use the greater of: (a) The highest amount provided in the 1986–87 school year by a district participating in the cooperative project; or (b) the amount authorized for such purposes in the state operating appropriations act in effect at the time. [1990 c 33 § 369; 1988 c 268 § 5. Formerly RCW 28A.100.086.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

**28A.340.050 Report to the superintendent of public instruction—Report to the legislature.** (1) School districts participating in a cooperative project established under RCW 28A.340.030 shall submit a report to the superintendent of public instruction by September 1 of the third year of operation of the cooperative project and by September 1 of the fifth year of the cooperative project.

(2) (a) The third year report shall indicate the progress of the cooperative project in meeting the objectives set forth in the application pursuant to RCW 28A.340.030.

(b) The fifth year report shall evaluate the success of the cooperative project in meeting the objectives set forth in the application pursuant to RCW 28A.340.030 and may include an application for renewal of the cooperative project.

(3) The superintendent of public instruction shall submit a report to the legislature by January 1 of every third odd-numbered year beginning January 1, 1989. The report shall include information about the number of school districts participating in cooperative projects and findings and recommendations about the educational effectiveness and cost-effectiveness of the cooperative projects. The report shall also include any findings and recommendations as determined by the superintendent regarding the relationship of the small high school factor in the state operating appropriations act to cooperative projects established under RCW 28A.340.010

through 28A.340.070. [1990 c 33 § 370; 1988 c 268 § 7. Formerly RCW 28A.100.088.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

**28A.340.060 Rules.** (1) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of RCW 28A.340.010 through 28A.340.070.

(2) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, the rules shall provide that the affected students are attending school in the district in which they reside for the purposes of RCW 28A.150.250 and 28A.150.260 and chapter 28A.545 RCW. [1990 c 33 § 371; 1988 c 268 § 8. Formerly RCW 28A.100.090.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

**28A.340.070 Allocation of state funds for technical assistance—Contracting with agencies for technical assistance.** (1) The superintendent of public instruction may allocate state funds, as may be appropriated, to provide technical assistance to eligible school districts interested in developing and implementing a cooperative project.

(2) The superintendent of public instruction may contract with other agencies to provide some or all of the technical assistance under subsection (1) of this section. [1988 c 268 § 9. Formerly RCW 28A.100.092.]

**Findings—Severability—1988 c 268:** See notes following RCW 28A.340.010.

## Chapter 28A.345

### WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

#### Sections

- 28A.345.010 Association created.
- 28A.345.020 Membership.
- 28A.345.030 Powers of association.
- 28A.345.040 Coordination of policies—Report.
- 28A.345.050 Association dues—Payment.
- 28A.345.060 Audit of staff classifications and employees' salaries—Contract with department of personnel—Copies.
- 28A.345.900 Repealed.
- 28A.345.902 Effective date—1983 c 187.

**Reviser's note—Sunset Act application:** The school directors' association is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.371. RCW 28A.345.010 through 28A.345.060 are scheduled for future repeal under RCW 43.131.372.

**28A.345.010 Association created.** The public necessity for the coordination of programs and procedures pertaining to policymaking and to control and management among the school districts of the state is hereby recognized, and in the furtherance of such coordination there is hereby created for said purpose an agency of the

state to be known as the Washington state school directors' association, hereinafter designated as the school directors' association. [1969 ex.s. c 223 § 28A.61.010. Prior: 1947 c 169 § 1; Rem. Supp. 1947 § 4709-20. Formerly RCW 28A.61.010, 28.58.320.]

**Sunset Act application:** See note following chapter digest.

**28A.345.020 Membership.** The membership of the school directors' association shall comprise the members of the boards of directors of the school districts of the state. [1969 ex.s. c 223 § 28A.61.020. Prior: 1947 c 169 § 2; Rem. Supp. 1947 § 4709-21. Formerly RCW 28A.61.020, 28.58.330.]

**Sunset Act application:** See note following chapter digest.

**28A.345.030 Powers of association.** The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or regional units and for its government and guidance: **PROVIDED**, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the compensation of members of the board of directors in accordance with RCW 43.03-.240, and for payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.320.050;

(4) To employ an executive director and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: **PROVIDED**, That

such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW 28A.320.110. [1991 c 66 § 1; 1990 c 33 § 372; 1989 c 325 § 1; 1983 c 187 § 1; 1979 c 151 § 13; 1974 ex.s. c 101 § 1; 1969 ex.s. c 184 § 4; 1969 ex.s. c 223 § 28A.61.030. Prior: 1947 c 169 § 3; Rem. Supp. 1947 § 4709-22. Formerly RCW 28A.61-.030, 28.58.340.]

**Sunset Act application:** See note following chapter digest.

**Effective date—1989 c 325:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1989." [1989 c 325 § 3.]

**28A.345.040 Coordination of policies—Report.** It shall be the duty of the school directors' association (1) to take such action as the association deems advisable to effect a coordination of policymaking, control, and management of the school districts of the state; and (2) to prepare and submit to the superintendent of public instruction annually, and oftener if deemed advisable by the association, reports and recommendations respecting the aforesaid matters and any other matters which in the judgment of the association pertain to an increase in the efficiency of the common school system. [1969 ex.s. c 223 § 28A.61.040. Prior: 1947 c 169 § 4; Rem. Supp. 1947 § 4709-23. Formerly RCW 28A.61.040, 28.58.350.]

**Sunset Act application:** See note following chapter digest.

**28A.345.050 Association dues—Payment.** The school directors' association may establish a graduated schedule of dues for members of the association based upon the number of certificated personnel in each district. Dues shall be established for the directors of each district as a group. The total of all dues assessed shall not exceed twenty-seven cents for each one thousand dollars of the state-wide total of all school districts' general fund receipts. The board of directors of a school district shall make provision for payment out of the general fund of the district of the dues of association members resident in the district, which payment shall be made in the manner provided by law for the payment of other claims against the general fund of the district. The dues for each school district shall be due and payable on the first day of January of each year. [1983 c 187 § 2; 1969 c 125 § 2; 1969 ex.s. c 223 § 28A.61.050. Prior: 1967 ex.s. c 8 § 76; 1965 c 103 § 1; 1957 c 281 § 1; 1953 c 226 § 1; 1947 c 169 § 5; Rem. Supp. 1947 § 4709-24. Formerly RCW 28A.61.050, 28.58.360.]

**Sunset Act application:** See note following chapter digest.

**28A.345.060 Audit of staff classifications and employees' salaries—Contract with department of personnel—Copies.** The association shall contract with the department of personnel for the department of personnel to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house

of the legislature dealing with common schools. [1986 c 158 § 3; 1983 c 187 § 4. Formerly RCW 28A.61.070.]

**Sunset Act application:** See note following chapter digest.

**28A.345.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.345.902 Effective date—1983 c 187.** This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983. [1983 c 187 § 8. Formerly RCW 28A.61.910.]

### Chapter 28A.350

#### SCHOOL DISTRICT WARRANTS—AUDITOR'S DUTIES

##### Sections

- 28A.350.010 Registering warrants—All districts.
- 28A.350.020 Registering warrants—Second class districts.
- 28A.350.030 Auditing accounts—All districts.
- 28A.350.040 Auditor to draw and issue warrants—Second class districts.
- 28A.350.050 Teacher must qualify before warrant drawn and issued or registered—All districts.
- 28A.350.060 Liability of auditor for warrants exceeding budget—All districts.
- 28A.350.070 Orders for warrants not transferable—Second class districts.

**28A.350.010 Registering warrants—All districts.** The county auditor shall register in the auditor's own office, and present to the treasurer for registration in the office of the county treasurer, all warrants of first class districts, and all warrants of second class districts electing to draw and issue their own warrants under RCW 28A.330.230 received from school district superintendents or district secretaries before delivery of the same to claimants. [1990 c 33 § 373; 1975 c 43 § 27; 1973 c 111 § 2; 1969 ex.s. c 223 § 28A.66.010. Prior: 1911 c 78 § 1, part; RRS § 4864. Formerly RCW 28A.66.010, 28.66.010.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**Severability—1973 c 111:** See note following RCW 28A.330.230.

**28A.350.020 Registering warrants—Second class districts.** The county auditor shall cause all school warrants of second class districts issued by the auditor to be registered in the treasurer's office and shall retain the vouchers on file in the auditor's office. [1990 c 33 § 374; 1975 c 43 § 28; 1969 ex.s. c 223 § 28A.66.020. Prior: 1911 c 78 § 1, part; RRS § 4863. Formerly RCW 28A.66.020, 28.66.020.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**28A.350.030 Auditing accounts—All districts.** The county auditors of the several counties of this state shall audit all accounts of the several school districts of their respective counties, the same as other accounts are audited with the other departments of the county. [1969 ex.s. c 223 § 28A.66.030. Prior: 1909 c 97 p 308 § 2; RRS § 4858. Formerly RCW 28A.66.030, 28.66.030.]

**28A.350.040 Auditor to draw and issue warrants—Second class districts.** The county auditor shall draw and issue warrants for the payment of all salaries, expenses and accounts against second class districts, except those who draw and issue their own warrants pursuant to RCW 28A.330.230 upon the written order of the majority of the members of the school board of each district. [1990 c 33 § 375; 1975 c 43 § 29; 1973 c 111 § 3; 1969 ex.s. c 223 § 28A.66.040. Prior: 1909 c 97 p 308 § 3; RRS § 4859. Formerly RCW 28A.66.040, 28.66.040.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

**Severability—1973 c 111:** See note following RCW 28A.330.230.

**28A.350.050 Teacher must qualify before warrant drawn and issued or registered—All districts.** No warrant shall be drawn and issued or registered by the county auditor for the payment of any teacher who is not qualified within the meaning of the law of this state. [1973 c 72 § 1; 1971 c 48 § 45; 1969 ex.s. c 223 § 28A.66.050. Prior: 1909 c 97 p 308 § 4; RRS § 4860. Formerly RCW 28A.66.050, 28.66.050.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.350.060 Liability of auditor for warrants exceeding budget—All districts.** Any county auditor issuing or causing to be issued a district warrant for any sum in excess of total disbursements of a district's annual budget shall be personally liable therefor, and shall reimburse the district in double the amount of any such sum. [1975-'76 2nd ex.s. c 118 § 31; 1969 ex.s. c 223 § 28A.66.070. Prior: 1959 c 216 § 22; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.070, 28.66.070.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.350.070 Orders for warrants not transferable—Second class districts.** An order for a warrant issued by any board of directors of second class school districts shall not be transferable, and the county auditor shall issue no warrant except to individuals or firms designated in original district orders. [1975 c 43 § 30; 1969 ex.s. c 223 § 28A.66.080. Prior: 1959 c 216 § 23; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.080, 28.66.080.]

**Effective date—Severability—1975 c 43:** See notes following RCW 28A.315.230.

## Chapter 28A.400

## EMPLOYEES

## Sections

## SUPERINTENDENTS

- 28A.400.010 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal.
- 28A.400.020 Directors' and superintendents' signatures filed with auditor.
- 28A.400.030 Superintendent's duties.

## PRINCIPALS

- 28A.400.100 Principals and vice principals—Employment of—Qualifications—Duties.
- 28A.400.110 Principal to assure appropriate student discipline—Building discipline standards, conferences on.

## DELIVERY OF MATERIALS TO SUCCESSORS

- 28A.400.150 Officials and employees to deliver books, papers and moneys to successors.

## SALARY AND COMPENSATION

- 28A.400.200 Salaries and compensation for employees—Minimum amounts—Limitations—Supplemental contracts.
- 28A.400.210 Employee attendance incentive program—Remuneration or benefit plan for unused sick leave.
- 28A.400.220 Employee salary or compensation—Limitations respecting.
- 28A.400.230 Deposit of cumulative total of earnings of group of employees—Authorized—Conditions.
- 28A.400.240 Deferred compensation plan for district employees—Limitations.
- 28A.400.250 Tax deferred annuities.
- 28A.400.260 Pension benefits or annuity benefits for certain classifications of employees—Procedure.
- 28A.400.270 Employee benefit—Definitions.
- 28A.400.275 Employee benefits—Contracts.
- 28A.400.280 Employee benefits—Employer contributions.

## HIRING AND DISCHARGE

- 28A.400.300 Hiring and discharging of employees—Seniority and leave benefits, transfers between school districts.
- 28A.400.310 Law against discrimination applicable to districts' employment practices.
- 28A.400.315 Employment contracts.
- 28A.400.320 Crimes against children—Mandatory termination of classified employees—Appeal.
- 28A.400.330 Crimes against children—Contractor employees—Termination of contract.
- 28A.400.340 Notice of discharge to contain notice of right to appeal if available.

## INSURANCE

- 28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums.
- 28A.400.360 Liability insurance for officials and employees authorized.
- 28A.400.370 Mandatory insurance protection for employees.
- 28A.400.380 Leave sharing program.
- 28A.400.390 Insurance for retired and disabled employees.

## SUPERINTENDENTS

**28A.400.010 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal.** In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent shall have supervision over the several departments of the schools thereof and carry out such

other powers and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.400.300(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of school superintendents the provisions of RCW 28A.405.210, 28A.405.240, and 28A.645.010 shall be inapplicable. [1990 c 33 § 376; 1985 c 7 § 94; 1975-'76 2nd ex.s. c 114 § 10; 1975-'76 2nd ex.s. c 15 § 10. Prior: 1975 1st ex.s. c 254 § 2; 1975-'76 1st ex.s. c 137 § 1; 1969 ex.s. c 223 § 28A.58.137; prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28A.58.137, 28.62.040, part.]

**Savings—1975-'76 2nd ex.s. c 114:** "Nothing in this 1976 amendatory act shall be construed to annul or to modify or to preclude the continuation of any lawful agreement entered into prior to the effective date of this 1976 amendatory act." [1975-'76 2nd ex.s. c 114 § 11.]

**Severability—1975-'76 2nd ex.s. c 114:** "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 114 § 12.]

**Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses:** RCW 28A.320.050.

**28A.400.020 Directors' and superintendents' signatures filed with auditor.** Every school district director and school district superintendent, on assuming the duties of his or her office, shall place his or her signature, certified to by some school district official, on file in the office of the county auditor. [1990 c 33 § 377; 1969 ex.s. c 223 § 28A.58.140. Prior: 1969 c 97 p 289 § 12; RRS § 4787; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.58.140, 28.58.140.]

**28A.400.030 Superintendent's duties.** In addition to such other duties as a district school board shall prescribe the school district superintendent shall:

(1) Attend all meetings of the board of directors and cause to have made a record as to the proceedings thereof.

(2) Keep such records and reports and in such form as the district board of directors require or as otherwise required by law or rule or regulation of higher administrative agencies and turn the same over to his or her successor.

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the superintendent must present his or her record book of board proceedings for public inspection, and shall make a statement of the financial condition of the district and such record book must always be open for public inspection.

(4) Give such notice of all annual or special elections as otherwise required by law; also give notice of the regular and special meetings of the board of directors.

(5) Sign all orders for warrants ordered to be issued by the board of directors.

(6) Carry out all orders of the board of directors made at any regular or special meeting. [1991 c 116 § 14; 1990 c 33 § 378; 1983 c 56 § 8; 1977 ex.s. c 80 § 30; 1975-'76 2nd ex.s. c 118 § 30; 1975 1st ex.s. c 275 § 110; 1971 c 48 § 30; 1969 ex.s. c 223 § 28A.58.150. Prior: 1909 c 97 p 304 § 2; RRS § 4842; prior: 1907 c 163 § 3; 1899 c 142 § 10; 1897 c 118 § 49; 1893 c 107 § 5; 1891 c 127 § 12; 1890 p 367 § 34; Code 1881 §§ 3194, 3195, 3196, 3197; 1873 p 428 §§ 10, 11, 12, 13. Formerly RCW 28A.58.150, 28.58.150.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Purpose**—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

## PRINCIPALS

**28A.400.100 Principals and vice principals—Employment of—Qualifications—Duties.** School districts may employ public school principals and/or vice principals to supervise the operation and management of the school to which they are assigned. Such persons shall hold valid teacher and administrative certificates. In addition to such other duties as shall be prescribed by law and by the job description adopted by the board of directors, each principal shall:

(1) Assume administrative authority, responsibility and instructional leadership, under the supervision of the school district superintendent, and in accordance with the policies of the school district board of directors, for the planning, management, supervision and evaluation of the educational program of the attendance area for which he or she is responsible.

(2) Submit recommendations to the school district superintendent regarding appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the attendance area for which he or she is responsible.

(3) Submit recommendations to the school district superintendent regarding the fiscal needs to maintain and improve the instructional program of the attendance area for which he or she is responsible.

(4) Assume administrative authority and responsibility for the supervision, counseling and discipline of pupils in the attendance area for which he or she is responsible. [1977 ex.s. c 272 § 1. Formerly RCW 28A.58.160.]

**Severability**—1977 ex.s. c 272: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 272 § 2.]

**28A.400.110 Principal to assure appropriate student discipline—Building discipline standards, conferences on.** Within each school the school principal shall determine that appropriate student discipline is established

and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3). [1990 c 33 § 379; 1980 c 171 § 2; 1975-'76 2nd ex.s. c 97 § 3. Formerly RCW 28A.58.201.]

## DELIVERY OF MATERIALS TO SUCCESSORS

**28A.400.150 Officials and employees to deliver books, papers and moneys to successors.** Every school official and employee, prior to termination of office or employment, shall deliver to his or her successor all books, papers and moneys pertaining to his or her office or employment. [1990 c 33 § 380; 1969 ex.s. c 223 § 28A.58.170. Prior: 1909 c 97 p 288 § 10; RRS § 4785; prior: 1897 c 118 § 60; 1890 p 386 § 69. Formerly RCW 28A.58.170, 28.58.170.]

## SALARY AND COMPENSATION

**28A.400.200 Salaries and compensation for employees—Minimum amounts—Limitations—Supplemental contracts.** (1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education certificated instructional staff shall not exceed the district's average basic education certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for basic education certificated instructional staff shall be included as salary under (a) of this subsection to the extent that the district's actual average benefit contribution exceeds the greater of: (i) The formula amount for insurance benefits provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable; or (ii) the actual average amount provided by the school district in the 1986-87 school year. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210, or employer contributions for old age survivors insurance, workers'

compensation, unemployment compensation, and retirement benefits under the Washington state retirement system.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280. [1990 1st ex.s. c 11 § 2; 1990 c 33 § 381; 1987 1st ex.s. c 2 § 205. Formerly RCW 28A.58.0951.]

**Reviser's note:** This section was amended by 1990 c 33 § 381 and by 1990 1st ex.s. c 11 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—1990 1st ex.s. c 11:** "The legislature recognizes the rising costs of health insurance premiums for school employees, and the increasing need to ensure effective use of state benefit dollars to obtain basic coverage for employees and their dependents. In school districts that do not pool benefit allocations among employees, increases in premium rates create particular hardships for employees with families. For many of these employees, the increases translate directly into larger payroll deductions simply to maintain basic benefits.

The goal of this act is to provide access for school employees to basic coverage, including coverage for dependents, while minimizing employees' out-of-pocket premium costs. Unnecessary utilization of medical services can contribute to rising health insurance costs. Therefore, the legislature intends to encourage plans that promote appropriate utilization without creating major barriers to access to care. The legislature also intends that school districts pool state benefit allocations so as to eliminate major differences in out-of-pocket premium expenses for employees who do and do not need coverage for dependents." [1990 1st ex.s. c 11 § 1.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**28A.400.210 Employee attendance incentive program—Remuneration or benefit plan for unused sick leave.** Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and noncertificated employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive

remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) At the time of separation from school district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1991 c 92 § 2; 1989 c 69 § 2; 1983 c 275 § 2. Formerly RCW 28A.58.096.]

**Intent—Construction—1983 c 275:** "This act is intended to effectuate the legislature's intent in the original enactment of chapter 182, Laws of 1980 and constitutes a readoption of the relevant portions of that law. This act shall be construed as being in effect since June 12, 1980." [1983 c 275 § 5.]

**28A.400.220 Employee salary or compensation—Limitations respecting.** (1) No school district board of directors or administrators may:

(a) Increase an employee's salary or compensation to include a payment in lieu of providing a fringe benefit; or

(b) Allow any payment to an employee which is partially or fully conditioned on the termination or retirement of the employee, except as provided in subsection (2) of this section.

(2) A school district board of directors may compensate an employee for termination of the employee's contract in accordance with the termination provisions of the contract. If no such provisions exist the compensation must be reasonable based on the proportion of the uncompleted contract. Compensation received under this subsection shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

(3) Provisions of any contract in force on March 27, 1982, which conflict with the requirements of this section shall continue in effect until contract expiration. After expiration, any new contract including any renewal, extension, amendment or modification of an existing contract executed between the parties shall be consistent with this section. [1989 c 11 § 5; 1982 1st ex.s. c 10 § 1. Formerly RCW 28A.58.098.]

**Severability—1989 c 11:** See note following RCW 9A.56.220.

**Severability—1982 1st ex.s. c 10:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 10 § 3.]

**28A.400.230 Deposit of cumulative total of earnings of group of employees—Authorized—Conditions.** Any school district authorized to draw and issue their own warrants may deposit the cumulative total of the net earnings of any group of employees in one or more banks within the state such group or groups may designate, to be credited to the individuals composing such groups, by a single warrant to each bank so designated or by other commercially acceptable methods: PROVIDED, That any such collective authorization shall be made in writing by a minimum of twenty-five employees or ten percent of the employees, whichever is less. [1973 c 111 § 5. Formerly RCW 28A.58.730.]

**Severability—1973 c 111:** See note following RCW 28A.330.230.

**28A.400.240 Deferred compensation plan for district employees—Limitations.** In addition to any other powers and duties, any school district may contract with any classified or certificated employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the appropriate internal revenue service exclusion allowance for such plans, and shall subsequently with the consent of the employee, deposit or invest in a credit union, savings and loan association, bank, mutual savings bank, or purchase life insurance, shares of an investment company, or a fixed and/or variable annuity contract, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an insurance company or an investment company licensed to contract business in this state. In no event shall the total investments or payments, and the employee's nondeferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation, for the

purpose of computing the retirement and pension benefits earned by any employee, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee. [1975 1st ex.s. c 205 § 1; 1974 ex.s. c 11 § 1. Formerly RCW 28A.58.740.]

**28A.400.250 Tax deferred annuities.** The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796, as now or hereafter amended. The superintendent of public instruction and educational service district superintendents, if eligible, may also be provided with such annuities.

At the request of at least five employees, the employees' employer shall arrange for the purchase of tax deferred annuity contracts which meet the requirements of 26 U.S.C., section 403(b), as now or hereafter amended, for the employees from any company the employees may choose that is authorized to do business in this state through a Washington-licensed insurance agent that the employees may select. Payroll deductions shall be made in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contracts. Employees' rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents shall not restrict, except as provided in this section, employees' right to select the tax deferred annuity of their choice or the agent, broker, or company licensed by the state of Washington through which the tax deferred annuity is placed or purchased, and shall not place limitations on the time or place that the employees make the selection.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents may each adopt rules regulating the sale of tax deferred annuities which: (1) Prohibit solicitation of employees for the purposes of selling tax deferred annuities on school premises during normal school hours; (2) only permit the solicitation of tax deferred annuities by agents, brokers, and companies licensed by the state of Washington; and (3) require participating companies to execute reasonable agreements protecting the respective employers from any liability attendant to procuring tax deferred annuities. [1984 c 228 § 1; 1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28A.58.560, 28.02-.120, part.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.400.260 Pension benefits or annuity benefits for certain classifications of employees—Procedure.** Notwithstanding any other provision of law, any school district shall have the authority to provide for all employees within an employment classification pension benefits or annuity benefits as may already be established and in effect by other employers of a similar classification of employees, and payment therefor may be made by making contributions to such pension plans or funds already established and in effect by the other employers and in which the school district is permitted to participate for such particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds.

Notwithstanding provisions of \*RCW 41.40.120(4), the coverage under such private plan shall not exclude such employees from simultaneous coverage under the Washington public employees' retirement system. [1972 ex.s. c 27 § 1. Formerly RCW 28A.58.565.]

\*Reviser's note: RCW 41.40.120 was recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

**28A.400.270 Employee benefit—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.400.275 and 28A.400.280.

(1) "School district employee benefit plan" means the overall plan used by the district for distributing fringe benefit subsidies to employees, including the method of determining employee coverage and the amount of employer contributions, as well as the characteristics of benefit providers and the specific benefits or coverage offered. It shall not include coverage offered to district employees for which there is no contribution from public funds.

(2) "Fringe benefit" does not include liability coverage, old-age survivors' insurance, workers' compensation, unemployment compensation, retirement benefits under the Washington state retirement system, or payment for unused leave for illness or injury under RCW 28A.400.210.

(3) "Basic benefits" are determined through local bargaining and are limited to medical, dental, vision, group term life, and group long-term disability insurance coverage.

(4) "Benefit providers" include insurers, third party claims administrators, direct providers of employee fringe benefits, health maintenance organizations, health care service contractors, and the Washington state health care authority or any plan offered by the authority.

(5) "Group term life insurance coverage" means term life insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees.

(6) "Group long-term disability insurance coverage" means long-term disability insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees. [1990 1st ex.s. c 11 § 4.]

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

**28A.400.275 Employee benefits—Contracts.** (1) Any contract for employee benefits executed after April 13, 1990, between a school district and a benefit provider or employee bargaining unit is null and void unless it contains an agreement to abide by state laws relating to school district employee benefits. The term of the contract may not exceed one year.

(2) School districts shall annually submit to the Washington state health care authority summary descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying the total number of employees and, for each employee, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent. The plan descriptions and the data shall be submitted in a format and according to a schedule established by the health care authority.

(3) Any benefit provider offering a benefit plan by contract with a school district under subsection (1) of this section shall agree to make available to the school district the benefit plan descriptions and, where available, the demographic information on plan subscribers that the district is required to report to the Washington state health care authority under this section.

(4) This section shall not apply to benefit plans offered in the 1989-90 school year. [1990 1st ex.s. c 11 § 5.]

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

**28A.400.280 Employee benefits—Employer contributions.** (1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional benefit plans may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents, without a payroll deduction for premium charges;

(c) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(d) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or pro-rata of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes. [1990 1st ex.s. c 11 § 6.]

**Intent**—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

## HIRING AND DISCHARGE

**28A.400.300 Hiring and discharging of employees—Seniority and leave benefits, transfers between school districts.** Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: **PROVIDED**, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such

person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when the person returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: **PROVIDED**, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service. [1990 c 33 § 382. Prior: 1985 c 210 § 1; 1985 c 46 § 1; 1983 c 275 § 3. Formerly RCW 28A.58.099.]

**Intent**—**Construction**—1983 c 275: See note following RCW 28A.400.210.

**28A.400.310 Law against discrimination applicable to districts' employment practices.** The provisions of chapter 49.60 RCW as now or hereafter amended shall be applicable to the employment of any certificated or noncertificated employee by any school district organized in this state. [1969 ex.s. c 223 § 28A.02.050. Prior: (i) 1937 c 52 § 1; RRS § 4693-1. Formerly RCW

28.02.050. (ii) 1937 c 52 § 2; RRS § 4693-2. Formerly RCW 28A.02.050, 28.02.051.]

**28A.400.315 Employment contracts.** Employment contracts entered into between an employer and a superintendent, or administrator as defined in RCW 28A.405.230, under RCW 28A.400.010, 28A.400.300, or 28A.405.210:

(1) Shall end no later than June 30th of the calendar year that the contract expires except that, a contract entered into after June 30th of a given year may expire during that same calendar year; and

(2) Shall not be revised or entered into retroactively. [1990 c 8 § 6.]

**Findings**—1990 c 8: See note following RCW 41.50.065.

**28A.400.320 Crimes against children—Mandatory termination of classified employees—Appeal.** (1) The school district board of directors shall immediately terminate the employment of any classified employee who has contact with children during the course of his or her employment upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

(2) The employee shall have a right of appeal under chapter 28A.645 RCW including any right of appeal under a collective bargaining agreement. [1990 c 33 § 383; 1989 c 320 § 3. Formerly RCW 28A.58.1001.]

**Severability**—1989 c 320: See note following RCW 28A.410.090.

**Crimes against children—Notification of conviction or guilty plea of school employee:** RCW 43.43.845.

**28A.400.330 Crimes against children—Contractor employees—Termination of contract.** The school district board of directors shall include in any contract for services with an entity or individual other than an employee of the school district a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The contract shall also contain a provision that any failure to

comply with this section shall be grounds for the school district immediately terminating the contract. [1989 c 320 § 4. Formerly RCW 28A.58.1002.]

**Severability**—1989 c 320: See note following RCW 28A.410.090.

**28A.400.340 Notice of discharge to contain notice of right to appeal if available.** Any notice of discharge given to a classified or certificated employee, if that employee has a right to appeal the discharge, shall contain notice of that right, notice that a description of the appeal process is available, and how the description of the appeal process may be obtained. [1991 c 102 § 1.]

## INSURANCE

**28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums.** (1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds are available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members and students, the premiums due on such protection or insurance shall be borne by the assenting school board member or student: **PROVIDED**, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. The school district board of directors may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of

such coverage as may be offered through the school district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW. [1990 1st ex.s. c 11 § 3; 1990 c 74 § 1; 1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28A.58.420, 28.76.410, part.]

**Reviser's note:** This section was amended by 1990 c 74 § 1 and by 1990 1st ex.s. c 11 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—1990 1st ex.s. c 11:** See note following RCW 28A.400.200.

**Implementation—Effective dates—1988 c 107:** See RCW 41.05.901.

**Retrospective application—1985 c 277:** See note following RCW 48.62.010.

**Severability—1971 ex.s. c 269:** "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 269 § 4.]

*Operation of student transportation program responsibility of local district—Scope—Transporting of elderly—Insurance:* RCW 28A.160.010.

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

**28A.400.360 Liability insurance for officials and employees authorized.** The board of directors of each school district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 1. Formerly RCW 28A.58.423.]

**28A.400.370 Mandatory insurance protection for employees.** Notwithstanding any other provision of law, after August 9, 1971 boards of directors of all school districts shall provide their employees with insurance protection covering those employees while engaged in the maintenance of order and discipline and the protection of school personnel and students and the property thereof when that is deemed necessary by such employees. Such insurance protection must include as a minimum, liability insurance covering injury to persons and property, and insurance protecting those employees from loss or damage of their personal property incurred while

so engaged. [1971 ex.s. c 269 § 1. Formerly RCW 28A.58.425.]

**Severability—1971 ex.s. c 269:** See note following RCW 28A.400.350.

**28A.400.380 Leave sharing program.** Every school district board of directors and educational service district superintendent may, in accordance with RCW 41.04.650 through 41.04.665, establish and administer a leave sharing program for their certificated and noncertificated employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing leave. [1990 c 23 § 4; 1989 c 93 § 6. Formerly RCW 28A.58.0991.]

**Severability—1989 c 93:** See note following RCW 41.04.650.

**28A.400.390 Insurance for retired and disabled employees.** (1) Retired and disabled school district employees shall be entitled to continue their participation in any insurance plans and contracts after their retirement or disablement for a period of at least thirty months. These retired or disabled employees shall bear the full cost of premiums required to provide the coverage.

(2) This section applies to:

(a) School district employees who retire or are disabled after July 28, 1991; and

(b) School district employees who retired within the eighteen-month period ending on July 28, 1991.

(3) School district employees who retired more than eighteen months before July 28, 1991, and who were covered by a school district's insurance plan on January 1, 1991, may continue their coverage for a period of at least one year from July 28, 1991. [1991 c 254 § 1.]

## Chapter 28A.405

### CERTIFICATED EMPLOYEES

#### Sections

#### QUALIFICATIONS

- 28A.405.010 Qualifications—Certificate or permit required.
- 28A.405.020 Repealed.
- 28A.405.025 Qualifications—Coursework on issues of abuse.
- 28A.405.030 Must teach morality and patriotism.
- 28A.405.040 Disqualification for failure to emphasize patriotism.
- 28A.405.050 Noncompliance with RCW 28A.405.040—Penalties.
- 28A.405.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure.
- 28A.405.070 Job sharing.

#### CRITERIA FOR EVALUATION AND MODEL PROGRAMS

- 28A.405.100 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.
- 28A.405.110 Evaluations—Legislative findings.
- 28A.405.120 Training for evaluators—Superintendent of public instruction to provide technical assistance.
- 28A.405.130 Training in evaluation procedures required.
- 28A.405.140 In-service training for teacher may be required after evaluation.

- 28A.405.150 Minimum standards for evaluations—Superintendent of public instruction to develop minimum procedural standards and programs—Establishment and implementation of programs—Reports.
- 28A.405.160 Implementation of minimum standards and model evaluation programs—Superintendent of public instruction to assist.

CONDITIONS AND CONTRACTS OF EMPLOYMENT

- 28A.405.200 Annual salary schedules as basis for salaries of certificated employees.
- 28A.405.210 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Nonrenewal due to enrollment decline or revenue loss—Notice—Opportunity for hearing.
- 28A.405.220 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure.
- 28A.405.230 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure.
- 28A.405.240 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.
- 28A.405.250 Certificated employees, applicants for certificated position, not to be discriminated against—Right to inspect personnel file.

SALARY AND COMPENSATION

- 28A.405.300 Adverse change in contract status of certificated employee—Determination of probable cause—Notice—Opportunity for hearing.
- 28A.405.310 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure.
- 28A.405.320 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Notice—Service—Filing—Contents.
- 28A.405.330 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Certification and filing with court of transcript.
- 28A.405.340 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Scope.
- 28A.405.350 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Costs, attorney's fee and damages.
- 28A.405.360 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appellate review.
- 28A.405.370 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Other statutes not applicable.
- 28A.405.380 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Direct judicial appeal, when.

HIRING AND DISCHARGE

- 28A.405.400 Payroll deductions authorized for employees.
- 28A.405.410 Payroll deductions authorized for certificated employees—Savings.

TEACHER ASSISTANCE PROGRAMS

- 28A.405.450 Recodified as RCW 28A.415.250.
- 28A.405.460 Lunch period for certificated employees.
- 28A.405.465 Use of noncertificated personnel to supervise in noninstructional activities.

TERMINATION OF CERTIFICATED STAFF

- 28A.405.470 Crimes against children—Mandatory termination of certified employees—Appeal.
- 28A.405.900 Certain certificated employees exempt from chapter provisions.

QUALIFICATIONS

**28A.405.010 Qualifications—Certificate or permit required.** No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state. [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28A.67.010, 28.67.010.]

**28A.405.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.405.025 Qualifications—Coursework on issues of abuse.** To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention. [1990 c 90 § 1.]

**28A.405.030 Must teach morality and patriotism.** It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship. [1969 ex.s. c 223 § 28A.67.110. Prior: 1909 c 97 p 308 § 8; RRS § 4855; prior: 1897 c 118 § 58; 1890 p 371 § 42; 1886 p 19 § 50; Code 1881 § 3203. Formerly RCW 28A.67.110, 28.67.110.]

**28A.405.040 Disqualification for failure to emphasize patriotism.** No person, whose certificate or permit authorizing him or her to teach in the common schools of this state has been revoked due to his or her failure to endeavor to impress on the minds of his or her pupils the principles of patriotism, or to train them up to the true comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state. [1990 c 33 § 384; 1969 ex.s. c 223 § 28A.67.030. Prior: 1919 c 38 § 2; RRS § 4846. Formerly RCW 28A.67.030, 28.67.030.]

**28A.405.050 Noncompliance with RCW 28A.405.040—Penalties.** Any person teaching in any school in violation of RCW 28A.405.040, and any school director knowingly permitting any person to teach in any school in violation of RCW 28A.405.040, shall be guilty of a misdemeanor. [1991 c 115 § 1; 1990 c 33 § 385; 1969 ex.s. c 223 § 28A.67.035. Prior: 1919 c 38 § 3;

RRS § 4847. Formerly RCW 28A.67.035, 28.67.035, 28.67.120.]

**28A.405.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure.** Certificated employees shall faithfully enforce in the common schools the course of study and regulations prescribed, whether regulations of the district, the superintendent of public instruction, or the state board of education, and shall furnish promptly all information relating to the common schools which may be requested by the educational service district superintendent.

Any certificated employee who wilfully refuses or neglects to enforce the course of study or the rules and regulations as above in this section required, shall not be allowed by the directors any warrant for salary due until said person shall have complied with said requirements. [1975 1st ex.s. c 275 § 132; 1971 c 48 § 49; 1969 ex.s. c 223 § 28A.67.060. Prior: (i) 1909 c 97 p 307 § 4; RRS § 4850; prior: 1899 c 142 § 11; 1897 c 118 § 54; 1886 p 18 § 47. Formerly RCW 28.67.060. (ii) 1909 c 97 p 360 § 8; RRS § 5051; prior: 1903 c 156 § 8; 1897 c 118 § 166. Formerly RCW 28A.67.060, 28.87.150.]

**28A.405.070 Job sharing.** In filling a position, school and educational service districts shall consider applications from two individuals wishing to share a job. All announcements of job openings shall contain a statement indicating the district will accept applications from individuals wishing to share the position. Job sharing shall be available to certificated staff. [1989 c 206 § 1. Formerly RCW 28A.58.580.]

#### CRITERIA FOR EVALUATION AND MODEL PROGRAMS

**28A.405.100 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.** (1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six

months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the evaluation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

Every employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of stated specific areas of deficiencies along with a suggested specific and reasonable program for improvement on or before February 1st of each year. A probationary period shall be established beginning on or before February 1st and ending no later than May 1st. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement shall be specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.405.300.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be

based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years and an employee or evaluator may request that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. The short form evaluation process may not be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section nor as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210. [1990 c 33 § 386; 1985 c 420 § 6; 1975-'76 2nd ex.s. c 114 § 3; 1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Formerly RCW 28A.67.065.]

**Severability**—1985 c 420: See note following RCW 28A.405.110.

**Savings**—**Severability**—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

**Effective date**—1975 1st ex.s. c 288: See RCW 41.59.940.

**Severability**—1975 1st ex.s. c 288: See RCW 41.59.950.

**Construction of chapter**—**Employee's rights preserved**: See RCW 41.59.920.

**Construction of chapter**—**Employer's responsibilities and rights preserved**: See RCW 41.59.930.

*Criteria used for evaluation of staff members to be included in guide: RCW 28A.150.230.*

*RCW 28A.405.100 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.110 Evaluations**—**Legislative findings**. The legislature recognizes the importance of teachers in

the educational system. Teachers are the fundamental element in assuring a quality education for the state's and the nation's children. Teachers, through their direct contact with children, have a great impact on the development of the child. The legislature finds that this important role of the teacher requires an assurance that teachers are as successful as possible in attaining the goal of a well-educated society. The legislature finds, therefore, that the evaluation of those persons seeking to enter the teaching profession is no less important than the evaluation of those persons currently teaching. The evaluation of persons seeking teaching credentials should be strenuous while making accommodations uniquely appropriate to the applicants. Strenuous teacher training and preparation should be complemented by examinations of prospective teachers prior to candidates being granted official certification by the state board of education. Teacher preparation program entrance evaluations, teacher training, teacher preparation program exit examinations, official certification, in-service training, and ongoing evaluations of individual progress and professional growth are all part of developing and maintaining a strong precertification and postcertification professional education system.

The legislature further finds that an evaluation system for teachers has the following elements, goals, and objectives: (1) An evaluation system must be meaningful, helpful, and objective; (2) an evaluation system must encourage improvements in teaching skills, techniques, and abilities by identifying areas needing improvement; (3) an evaluation system must provide a mechanism to make meaningful distinctions among teachers and to acknowledge, recognize, and encourage superior teaching performance; and (4) an evaluation system must encourage respect in the evaluation process by the persons conducting the evaluations and the persons subject to the evaluations through recognizing the importance of objective standards and minimizing subjectivity. [1985 c 420 § 1. Formerly RCW 28A.67.205.]

**Contingency**—**Effective date**—1985 c 420: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, sections 1 through 5 and 7 through 10 of this act shall be null and void. This act shall be of no effect unless such specific funding is so provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 420 § 11.]

**Reviser's note**: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

**Severability**—1985 c 420: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 420 § 12.]

**28A.405.120 Training for evaluators**—**Superintendent of public instruction to provide technical assistance**. School districts shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers to have training in evaluation procedures. The superintendent of public instruction shall provide technical assistance to the local school districts and to the educational service

districts in providing training to evaluators. [1985 c 420 § 3. Formerly RCW 28A.67.210.]

**Contingency—Effective date—Severability—1985 c 420:** See notes following RCW 28A.405.110.

**28A.405.130 Training in evaluation procedures required.** No administrator, principal, or other supervisory personnel may evaluate a teacher without having received training in evaluation procedures. [1985 c 420 § 4. Formerly RCW 28A.67.215.]

**Effective date—1985 c 420 § 4:** "Section 4 of this act shall take effect September 1, 1986." [1985 c 420 § 10.]

**Contingency—Effective date—Severability—1985 c 420:** See notes following RCW 28A.405.110.

**28A.405.140 In-service training for teacher may be required after evaluation.** After an evaluation conducted pursuant to RCW 28A.405.100, the school district may require the teacher to take in-service training provided by the district in the area of teaching skills needing improvement. [1990 c 33 § 387; 1985 c 420 § 5. Formerly RCW 28A.67.220.]

**Contingency—Effective date—Severability—1985 c 420:** See notes following RCW 28A.405.110.

**28A.405.150 Minimum standards for evaluations—Superintendent of public instruction to develop minimum procedural standards and programs—Establishment and implementation of programs—Reports.**

(1) The superintendent of public instruction shall develop for field-test purposes, and in consultation with local school directors, administrators, parents, students, the business community, and teachers, minimum procedural standards for evaluations of certificated classroom teachers and certificated support personnel. The minimum procedural standards for evaluation shall be based on available research and shall include: (a) A statement of the purpose of evaluations; (b) the frequency of evaluations, with recognition of the need for more frequent evaluations for beginning teachers; (c) the conduct of the evaluation; (d) the procedure to be used in making the evaluation; and (e) the use of the results of the evaluation.

The superintendent of public instruction shall propose the minimum procedural standards for field tests not later than July 1, 1986.

(2) The superintendent of public instruction shall develop or purchase and conduct field tests in local districts during the 1987–88 and 1988–89 school years model evaluation programs, including standardized evaluation instruments, which meet the minimum standards developed pursuant to subsection (1) of this section and the minimum criteria established pursuant to RCW 28A.405.100. In consultation with school directors, administrators, parents, students, the business community, and teachers, the superintendent of public instruction shall consider a variety of programs such as programs providing for peer review and evaluation input by parents, input by students in appropriate circumstances, instructional assistance teams, and outside professional

evaluation. Such programs shall include specific indicators of performance or detailed work expectations against which performance can be measured. The superintendent of public instruction shall compensate any district participating in such tests for the actual expenses incurred by the district.

(3) Not later than September 1, 1989, the superintendent of public instruction shall adopt state procedural standards and select from one to five model evaluation programs which may be used by local districts in conducting evaluations pursuant to RCW 28A.405.100(1). Local school districts shall establish and implement an evaluation program on or before September 1, 1990, by selecting one of the models approved by the superintendent of public instruction or by adopting an evaluation program pursuant to the bargaining process set forth in chapters 41.56 and 41.59 RCW. Local school districts may adopt an evaluation program which contains criteria and standards in excess of the minimum criteria and standards established by the superintendent of public instruction.

(4) The superintendent of public instruction shall report to the legislature on the progress of the development and field testing of minimum procedural standards and model evaluation programs on or before January 1, 1987, January 1, 1988, and January 1, 1989. [1990 c 33 § 388; 1988 c 241 § 1; 1986 c 73 § 1; 1985 c 420 § 7. Formerly RCW 28A.67.225.]

**Contingency—Effective date—Severability—1985 c 420:** See notes following RCW 28A.405.110.

**28A.405.160 Implementation of minimum standards and model evaluation programs—Superintendent of public instruction to assist.** The superintendent of public instruction shall provide technical assistance to local districts for implementation of the minimum standards and model evaluation programs selected under RCW 28A.405.150. [1990 c 33 § 389; 1985 c 420 § 8. Formerly RCW 28A.67.230.]

**Contingency—Effective date—Severability—1985 c 420:** See notes following RCW 28A.405.110.

## CONDITIONS AND CONTRACTS OF EMPLOYMENT

**28A.405.200 Annual salary schedules as basis for salaries of certificated employees.** Every school district by action of its board of directors shall adopt annual salary schedules and reproduce the same by printing, mimeographing or other reasonable method, which shall be the basis for salaries for all certificated employees in the district. [1969 ex.s. c 283 § 1. Formerly RCW 28A.67.066, 28.67.066.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28A.405.210 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Nonrenewal due to enrollment decline or revenue loss—Notice—Opportunity for**

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

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

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section. [1990 c 33 § 390. Prior: 1983 c 83 § 1; 1983 c 56 § 11; 1975-'76 2nd ex.s. c 114 § 4; 1975 1st ex.s. c 275 § 133; 1973 c 49 § 2; 1970 ex.s. c 15 § 16; prior: 1969 ex.s. c 176 § 143; 1969 ex.s. c 34 § 12; 1969 ex.s. c 15 § 2; 1969 ex.s. c 223 § 28A.67.070; prior: 1961 c 241 § 1; 1955 c 68 § 3; prior: (i) 1909 c 97 p 307 § 5; 1897 c 118 § 55; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; Code 1881 § 3200; RRS § 4851. (ii) 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.67.070, 28.67.070.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Savings**—**Severability**—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

*Minimum criteria for the evaluation of certificated employees, including administrators*—*Procedure*—*Scope*—*Penalty*: RCW 28A.405.100.

*School superintendent*—RCW 28A.405.210 not applicable to contract renewal: RCW 28A.400.010.

**28A.405.220 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure.** Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first year of employment by such district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving

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

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

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

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW. [1990 c 33 § 391; 1975-'76 2nd ex.s. c 114 § 1. Formerly RCW 28A.67.072.]

~~Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.~~

**28A.405.230 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure.** Any certificated employee of a school district employed as an assistant, superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring

any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: **PROVIDED**, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract. [1990 c 33 § 392; 1975-'76 2nd ex.s. c 114 § 9. Formerly RCW 28A.67.073.]

~~Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.~~

**28A.405.240 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.** No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental

contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of this title. [1990 c 33 § 393; 1985 c 341 § 15; 1969 ex.s. c 283 § 2. Formerly RCW 28A.67.074, 28.67.074.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

*RCW 28A.405.240 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.250 Certificated employees, applicants for certificated position, not to be discriminated against—Right to inspect personnel file.** The board of directors of any school district, its employees or agents shall not discriminate in any way against any applicant for a certificated position or any certificated employee

(1) On account of his or her membership in any lawful organization, or

(2) For the orderly exercise during off-school hours of any rights guaranteed under the law to citizens generally, or

(3) For family relationship, except where covered by chapter 42.23 RCW.

The school district personnel file on any certificated employee in the possession of the district, its employees, or agents shall not be withheld at any time from the inspection of that employee. [1990 c 33 § 394; 1969 ex.s. c 34 § 21. Formerly RCW 28A.58.445.]

*Code of ethics for municipal officers—Contract interests: Chapter 42.23 RCW.*

## SALARY AND COMPENSATION

**28A.405.300 Adverse change in contract status of certificated employee—Determination of probable cause—Notice—Opportunity for hearing.** In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW

28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a discharge or other adverse action against contract status for the purposes of this section. [1990 c 33 § 395; 1975-'76 2nd ex.s. c 114 § 2; 1973 c 49 § 1; 1969 ex.s. c 34 § 13; 1969 ex.s. c 223 § 28A.58.450. Prior: 1961 c 241 § 2. Formerly RCW 28A.58.450, 28.58.450.]

**Savings—Severability—1975-'76 2nd ex.s. c 114:** See notes following RCW 28A.400.010.

*Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty: RCW 28A.405.100.*

*RCW 28A.405.300 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

*Transfer of administrator to subordinate certificated position—Procedure: RCW 28A.405.230.*

**28A.405.310 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure.** (1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.405.300, or any employee, with the exception of provisional employees as defined in RCW 28A.405.220, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.405.210, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.405.300 or 28A.405.210, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (5) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.405.300 or 28A.405.210, a hearing officer shall be appointed in the following manner:

Within fifteen days following the receipt of any such request the board of directors of the district or its designee and the employee or employee's designee shall each appoint one nominee. The two nominees shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association or a person adhering to the arbitration standards established by the public employment relations commission and listed on its current roster of arbitrators. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) of this section, the hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the hearing officer. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee,

the employee shall be restored to his or her employment position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(9) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board. [1990 c 33 § 396; 1987 c 375 § 1; 1977 ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 114 § 5. Formerly RCW 28A.58.455.]

**Severability**—1977 ex.s. c 7: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 7 § 2.]

**Savings**—**Severability**—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

**28A.405.320 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Notice—Service—Filing—Contents.** Any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or failure to act upon the part of a school board relating to the discharge or other action adversely affecting his or her contract status, or failure to renew that employee's contract for the next ensuing term, within thirty days after his or her receipt of such decision or order, may serve upon the chair of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth also in a clear and concise manner the errors complained of. [1990 c 33 § 397; 1969 ex.s. c 34 § 14; 1969 ex.s. c 223 § 28A.58.460. Prior: 1961 c 241 § 3. Formerly RCW 28A.58.460, 28.58.460.]

*RCW 28A.405.320 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.330 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Certification and filing with court of transcript.** The clerk of the superior court, within ten days of receipt of the notice of appeal shall notify in writing the chair of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct. [1990 c 33 § 398; 1969 ex.s. c 223 § 28A.58.470. Prior: 1961 c 241 § 4. Formerly RCW 28A.58.470, 28.58.470.]

*RCW 28A.405.330 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.340 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Scope.** Any appeal to the superior court by an employee shall be heard by the superior court without a jury. Such appeal shall be heard expeditiously. The superior court's review shall be confined to the verbatim transcript of the hearing and the papers and exhibits admitted into evidence at the hearing, except that in cases of alleged irregularities in procedure not shown in the transcript or exhibits and in cases of alleged abridgment of the employee's constitutional free speech rights, the court may take additional testimony on the alleged procedural irregularities or abridgment of free speech rights. The court shall hear oral argument and receive written briefs offered by the parties.

The court may affirm the decision of the board or hearing officer or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the employee may have been prejudiced because the decision was:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board or hearing officer; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (6) Arbitrary or capricious. [1975-'76 2nd ex.s. c 114 § 6; 1969 ex.s. c 34 § 15; 1969 ex.s. c 223 § 28A.58.480. Prior: 1961 c 241 § 5. Formerly RCW 28A.58.480, 28.58.480.]

**Savings—Severability—1975-'76 2nd ex.s. c 114:** See notes following RCW 28A.400.010.

*RCW 28A.405.340 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.350 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Costs, attorney's fee and damages.** If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal grounds, the court in its discretion may award to the employee a reasonable attorneys' fee for the preparation and trial of his or her appeal, together with his or her taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district. [1990 c 33 § 399; 1975-'76 2nd ex.s. c 114 § 7; 1969 ex.s. c 34 § 16; 1969 ex.s. c 223 § 28A.58.490. Prior: 1961 c 241 § 6. Formerly RCW 28A.58.490, 28.58.490.]

**Savings—Severability—1975-'76 2nd ex.s. c 114:** See notes following RCW 28A.400.010.

*RCW 28A.405.350 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.360 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appellate review.** Either party to the proceedings in the superior court may seek appellate review of the decision as any other civil action. [1988 c 202 § 26; 1971 c 81 § 71; 1969 ex.s. c 223 § 28A.58.500. Prior: 1961 c 241 § 7. Formerly RCW 28A.58.500, 28.58.500.]

**Severability—1988 c 202:** See note following RCW 2.24.050.  
*RCW 28A.405.360 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.405.370 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Other statutes not applicable.** The provisions of chapter 28A.645 RCW shall not be applicable to RCW 28A.405.300 through 28A.405.360. [1990 c 33 § 400; 1969 ex.s. c 223 § 28A.58.510. Prior: 1961 c 241 § 8. Formerly RCW 28A.58.510, 28.58.510.]

*RCW 28A.405.370 not applicable to contract renewal of school superintendents: RCW 28A.400.010.*

**28A.405.380 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Direct judicial appeal, when.** In the event that an employee, with the exception of a provisional employee as defined in RCW 28A.405.220, receives a notice of probable cause pursuant to RCW 28A.405.300 or 28A.405.210 stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the secretary of the school board and filing with the clerk of the superior court a notice of appeal within ten days after receiving the probable cause notice. The notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be tried as an ordinary civil action: **PROVIDED**, That the board of directors' determination of priorities for the expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW 28A.405.340: **PROVIDED FURTHER**, That the provisions of RCW 28A.405.350 and 28A.405.360 shall be applicable thereto. [1990 c 33 § 401; 1975-'76 2nd ex.s. c 114 § 8; 1973 c 49 § 3; 1969 ex.s. c 34 § 18. Formerly RCW 28A.58.515.]

**Savings—Severability—1975-'76 2nd ex.s. c 114:** See notes following RCW 28A.400.010.

*RCW 28A.405.380 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

## HIRING AND DISCHARGE

**28A.405.400 Payroll deductions authorized for employees.** In addition to other deductions permitted by law, any person authorized to disburse funds in payment of salaries or wages to employees of school districts, upon written request of at least ten percent of the employees, shall make deductions as they authorize, subject to the limitations of district equipment or personnel. Any person authorized to disburse funds shall not be required to make other deductions for employees if fewer than ten percent of the employees make the request for the same payee. Moneys so deducted shall be paid or applied monthly by the school district for the purposes specified by the employee. The employer may not derive any financial benefit from such deductions. A deduction authorized before July 28, 1991, shall be subject to the law in effect at the time the deduction was authorized. [1991 c 116 § 18; 1972 ex.s. c 39 § 1. Formerly RCW 28A.67.095.]

**28A.405.410 Payroll deductions authorized for certificated employees—Savings.** Nothing in RCW 28A.405.400 shall be construed to annul or modify any lawful agreement heretofore entered into between any school district and any representative of its employees or other existing lawful agreements and obligations in effect on May 23, 1972. [1990 c 33 § 402; 1972 ex.s. c 39 § 2. Formerly RCW 28A.67.096.]

## TEACHER ASSISTANCE PROGRAMS

**28A.405.450 Recodified as RCW 28A.415.250.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.405.460 Lunch period for certificated employees.** All certificated employees of school districts shall be allowed a reasonable lunch period of not less than thirty continuous minutes per day during the regular school lunch periods and during which they shall have no assigned duties. [1991 c 116 § 15; 1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28A.58.275, 28.58.275.]

**28A.405.465 Use of noncertificated personnel to supervise in noninstructional activities.** Any school district may employ noncertificated personnel to supervise school children in noninstructional activities, and in instructional activities while under the supervision of a certificated employee. [1991 c 116 § 16.]

## TERMINATION OF CERTIFICATED STAFF

**28A.405.470 Crimes against children—Mandatory termination of certified employees—Appeal.** The school district shall immediately terminate the employment of any person whose certificate or permit authorized under chapter 28A.405 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(2) upon a guilty

plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Employment shall remain terminated unless the employee successfully prevails on appeal. This section shall only apply to employees holding a certificate or permit who have contact with children during the course of their employment. [1990 c 33 § 405; 1989 c 320 § 5. Formerly RCW 28A.58.1003.]

**Severability—1989 c 320:** See note following RCW 28A.410.090.

**28A.405.900 Certain certificated employees exempt from chapter provisions.** Certificated employees subject to the provisions of RCW 28A.405.010 through 28A.405.240, 28A.405.400 through 28A.405.410, 28A.415.250, and 28A.405.900 shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular, or other leave by school districts.

It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal or constitutional rights of such employee be limited, abridged, or abrogated. [1990 c 33 § 404; 1972 ex.s. c 142 § 3. Formerly RCW 28A.67.900.]

Chapter 28A.410  
CERTIFICATION

## Sections

- 28A.410.010 Certification—State board duty—Rules and regulations—Background check—Superintendent of public instruction as administrator.
- 28A.410.020 Requirements for admission to teacher preparation programs—Exemptions—Rules.
- 28A.410.030 Admission to practice examination for candidates for certification—Contents—Rules.
- 28A.410.040 Initial-level certificates—Requirements—Renewal, enrollment in masters degree program—Time limits.
- 28A.410.050 Professional-level certificate—Masters degree or equivalency required—Rules.
- 28A.410.060 Fee for certification—Disposition.
- 28A.410.070 Registration of certificates.
- 28A.410.080 School year—For certification or qualification purposes.
- 28A.410.090 Revocation or suspension of certificate or permit to teach—Mandatory revocation for crimes against children.
- 28A.410.100 Revocation of authority to teach—Hearings and appeals.
- 28A.410.110 Limitation on reinstatement after revocation—Reinstatement prohibited for crimes against children.
- 28A.410.120 Professional certification not to be required of superintendents, deputy or assistant superintendents.
- 28A.410.130 Repealed.
- 28A.410.140 Student teaching—Intent.
- 28A.410.150 through 28A.410.190 Expired.
- 28A.410.900 Repealed.

**28A.410.010 Certification—State board duty—Rules and regulations—Background check—Superintendent of public instruction as administrator.** The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. Except for applicants who are applying for certificates which restrict the holder of the certificate to the teaching of students who are sixteen years of age or older, the rules shall require that the initial application for certification shall require a background check of the applicant through the Washington state patrol criminal identification system at the applicant's expense.

In establishing rules pertaining to the qualifications of instructors of sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations. [1988 c 172 § 3; 1988 c 97 § 1; 1987 c 486 § 8; 1975-'76 2nd ex.s. c 92 § 2; 1969 ex.s. c 223 § 28A.70.005. Formerly RCW 28A.70.005.]

**Reviser's note:** This section was amended by 1988 c 97 § 1 and by 1988 c 172 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1988 c 97:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 97 § 3.]

**Severability—1975-'76 2nd ex.s. c 92:** See note following RCW 28A.305.130.

**28A.410.020 Requirements for admission to teacher preparation programs—Exemptions—Rules.** (1) No person may be admitted to a professional teacher preparation program within Washington state without first demonstrating that he or she is competent in the basic skills required for oral and written communication and computation. This requirement shall be waived for persons who have completed a baccalaureate degree; or graduate degree program; or who have completed two or more years of college level course work, demonstrated competency through college level course work and a written essay, and are over the age of twenty-one.

(2) After June 30, 1989, no person shall be admitted to a teacher preparation program who has a combined score of less than the state-wide median score for the prior school year scored by all persons taking tests of general achievement selected by the state board of education. The state board of education shall develop criteria and adopt rules for exemptions from this subsection.

(3) The state board of education shall adopt rules to implement this section. [1991 c 116 § 20; 1988 c 251 § 4; 1987 c 525 § 202. Formerly RCW 28A.04.122.]

**Intent—1987 c 525 §§ 201-233:** "The legislature intends to enhance the education of the state's youth by improving the quality of teaching. The legislature intends to establish a framework for teacher and principal preparation programs and to recognize teaching as a profession.

The legislature finds that the quality of teacher preparation programs is enhanced when a planned, sequenced approach is used that provides for the application of practice to academic course work.

The legislature supports better integration of the elements of teacher preparation programs including knowledge of subject matter, teaching methods, and actual teaching experiences.

The legislature finds that establishing: (1) A teaching internship program; (2) a post-baccalaureate program resulting in a masters degree; (3) stronger requirements for earning principal credentials; and (4) a review of the preparation standards for school principals and educational staff associates are appropriate next steps in enhancing the quality of educational personnel in Washington." [1987 c 525 § 201.]

**Short title—1987 c 525 §§ 202-233:** "Sections 202 through 233 of this act shall be known as the professional educator excellence act of 1987." [1987 c 525 § 234.] For codification of sections 202 through 233, [1987 c 525], see Codification Tables, Volume 0.

**28A.410.030 Admission to practice examination for candidates for certification—Contents—Rules.** The state board of education shall require a uniform state admission to practice examination for teacher certification candidates. Commencing August 31, 1993, teacher certification candidates completing a teacher preparation program shall be required to pass an admission to practice examination before being granted an initial certificate. The examination shall test knowledge and competence in subjects including, but not limited to, instructional skills, classroom management, and student behavior and development. The examination shall consist primarily of essay questions. The state board of education shall adopt such rules as may be necessary to implement this section. [1991 c 116 § 21; 1987 c 525 § 203. Formerly RCW 28A.70.010.]

**Intent—Short title—1987 c 525 §§ 202-233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.410.040 Initial-level certificates—Requirements—Renewal, enrollment in masters degree program—Time limits.** (1) The state board of education shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW 28A.305.130 (1) and (2). The state board of education shall develop and adopt rules establishing baccalaureate degree equivalency standards for certification of vocational instructors performing instructional duties and acquiring initial level certification after August 31, 1992. However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

(2) The state board of education shall study the impact of eliminating the major in education under subsection (1) of this section and submit a report to the legislature by January 15, 1990. The report shall include a recommendation on whether the major in education under subsection (1) of this section should be eliminated.

(3) The initial certificate shall be valid for two years.

(4) Certificate holders may renew the certificate for a three-year period by providing proof of acceptance and enrollment in an approved masters degree program. A second renewal, for a period of two years, may be granted upon recommendation of the degree-granting institution and if the certificate holder can demonstrate substantial progress toward the completion of the masters degree and that the degree will be completed within the two-year extension period. Under no circumstances may an initial certificate be valid for a period of more than seven years. [1990 c 33 § 406. Prior: 1989 c 402 § 1; 1989 c 29 § 1; 1987 c 525 § 212. Formerly RCW 28A.70.040.]

**Intent—Short title—1987 c 525 §§ 202–233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.410.050 Professional-level certificate—Masters degree or equivalency required—Rules.** (1) The state board of education shall implement rules providing that all teachers performing instructional duties and acquiring professional level certificate status after August 31, 1992, shall possess, as a requirement of professional status, a masters degree in teaching, or a masters degree in the arts, sciences, and/or humanities.

(2) The state board of education shall develop and adopt rules establishing masters degree equivalency standards for vocational instructors performing instructional duties and acquiring professional level certification after August 31, 1992. [1989 c 29 § 2; 1987 c 525 § 215. Formerly RCW 28A.70.042.]

**Intent—Short title—1987 c 525 §§ 202–233:** See notes following RCW 28A.410.020.

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.410.060 Fee for certification—Disposition.** The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the

educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of recertification professional preparation, program evaluation, and professional in-service training programs in accord with rules and regulations of the state board of education herein authorized. [1990 c 33 § 407; 1975-'76 2nd ex.s. c 92 § 3; 1975-'76 2nd ex.s. c 15 § 17. Prior: 1975 1st ex.s. c 275 § 134; 1975 1st ex.s. c 192 § 1; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110; prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28A.70.110, 28.70.110, 28.70.120.]

**Severability—1975-'76 2nd ex.s. c 92:** See note following RCW 28A.305.130.

**Severability—1975 1st ex.s. c 192:** "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 192 § 3.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.410.070 Registration of certificates.** All certificates issued by the superintendent of public instruction shall be valid and entitle the holder thereof to employment in any school district of the state upon being registered by the school district if designated to do so by the school district, which fact shall be evidenced on the certificate in the words, "Registered for use in ----- district," together with the date of registry, and an official signature of the person registering the same: PROVIDED, That a copy of the original certificate duly certified by the superintendent of public instruction may be used for the purpose of registry and endorsement in lieu of the original. [1983 c 56 § 12; 1975-'76 2nd ex.s. c 92 § 4; 1975 1st ex.s. c 275 § 135; 1971 c 48 § 50; 1969 ex.s. c 223 § 28A.70.130. Prior: 1909 c 97 p 338 § 11; RRS § 4976; prior: 1897 c 118 § 147. Formerly RCW 28A.70.130, 28.70.130.]

**Severability—1983 c 56:** See note following RCW 28A.195.010.

**Severability—1975-'76 2nd ex.s. c 92:** See note following RCW 28A.305.130.

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.410.080 School year—For certification or qualification purposes.** The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days. [1969 ex.s. c 223 § 28A.01-.025. Prior: 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part. Formerly RCW 28A-.01.025, 28.01.010, part.]

**28A.410.090 Revocation or suspension of certificate or permit to teach—Mandatory revocation for crimes against children.** (1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules and regulations promulgated thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint of any school

district superintendent or educational service district superintendent for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

(2) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section. [1990 c 33 § 408; 1989 c 320 § 1; 1975 1st ex.s. c 275 § 137; 1974 ex.s. c 55 § 2; 1971 c 48 § 51; 1969 ex.s. c 223 § 28A.70.160. Prior: 1909 c 97 p 345 § 1; RRS § 4992; prior: 1897 c 118 § 148. Formerly RCW 28A.70.160, 28.70.160.]

**Severability—1989 c 320:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 320 § 7.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

*Crimes against children—Notification of conviction or guilty plea of school employee: RCW 43.43.845.*

**28A.410.100 Revocation of authority to teach—Hearings and appeals.** Any teacher whose certificate to teach has been questioned by the filing of a complaint by a school district superintendent or educational service district superintendent under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered. [1990 c 33 § 409; 1975 1st ex.s. c 275 § 138; 1971 c 48 § 52; 1969 ex.s. c 223 § 28A.70.170. Prior: 1909 c 97 p 346 § 3; RRS § 4994. Formerly RCW 28A.70.170, 28.70.170.]

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.410.110 Limitation on reinstatement after revocation—Reinstatement prohibited for crimes against children.** In case any certificate or permit authorized under this chapter or chapter 28A.405 RCW is revoked, the holder shall not be eligible to receive another certificate or permit for a period of twelve months after the date of revocation. However, if the certificate or permit authorized under this chapter or chapter 28A.405 RCW was revoked because of a guilty plea or the conviction of a felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction, the certificate or permit shall not be reinstated. [1990 c 33 § 410; 1989 c 320 § 2; 1969 ex.s. c 223 § 28A.70.180. Prior: 1909 c 97 p 346 § 2; RRS § 4993. Formerly RCW 28A.70.180, 28.70.180.]

**Severability—1989 c 320:** See note following RCW 28A.410.090.

**28A.410.120 Professional certification not to be required of superintendents, deputy or assistant superintendents.** Notwithstanding any other provision of this title, the state board of education or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is, in fact, deputy superintendent, or assistant superintendent. [1990 c 33 § 411; 1975 1st ex.s. c 254 § 3. Formerly RCW 28A.02.260.]

**Severability—1975 1st ex.s. c 254:** "If any provision of this 1975 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 254 § 4.]

**28A.410.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.410.140 Student teaching—Intent.** (1) The legislature recognizes that strong teacher preparation programs are fundamentally important to the success of the state's entire educational system and that clinical field experiences are critical to the success of the teacher preparation programs.

(2) The legislature believes:

(a) Schools, school districts, and the colleges and universities mutually benefit from cooperative relationships to provide prospective teacher candidates with appropriate and necessary student teaching experiences;

(b) Prospective teacher candidates should have field experiences and student teaching opportunities which are, to the extent reasonably possible, reflective of the

diversity existing among schools and school districts state-wide; and

(c) School districts state-wide, to the extent reasonably practical, should have access to student teachers. [1989 c 253 § 1. Formerly RCW 28A.70.395.]

**28A.410.150 through 28A.410.190 Expired.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.410.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 28A.415

#### TEACHERS' INSTITUTES, WORKSHOPS, AND OTHER IN-SERVICE TRAINING

##### Sections

- 28A.415.010 Center for improvement of teaching—Improvement of teaching coordinating council—Teachers' institutes and workshops.
- 28A.415.020 Credit on salary schedule for approved in-service training and continuing education.
- 28A.415.030 In-Service Training Act of 1977—Purpose.
- 28A.415.040 In-Service Training Act of 1977—Administration of funds—Rules—Requirements for local districts—In-service training task force.
- 28A.415.050 In-service training programs—Instruction on teaching skills to children to resist and report abuse.
- 28A.415.060 Credits for educational staff associates to fulfill continuing education requirements.
- 28A.415.100 Student teaching centers—Legislative recognition—Intent.
- 28A.415.105 Definitions.
- 28A.415.110 Cooperating teachers.
- 28A.415.115 Salary stipends for cooperating teachers.
- 28A.415.120 Application of RCW 28A.415.110 and 28A.415.115.
- 28A.415.125 Network of student teaching centers.
- 28A.415.130 Allocation of funds for student teaching centers.
- 28A.415.135 Alternative means of teacher placement.
- 28A.415.140 Field experiences.
- 28A.415.145 Rules.
- 28A.415.200 Minority teacher recruitment program—Intent.
- 28A.415.205 Minority teacher recruitment program.
- 28A.415.250 Teacher assistance program—Provision for mentor teachers.

**28A.415.010 Center for improvement of teaching—Improvement of teaching coordinating council—Teachers' institutes and workshops.** It shall be the responsibility of each educational service district board to establish a center for the improvement of teaching. The center shall administer, coordinate, and act as fiscal agent for such programs related to the recruitment and training of certificated and classified K-12 education personnel as may be delegated to the center by the superintendent of public instruction under RCW 28A.310.470, or the state board of education under RCW 28A.310.480. To assist in these activities, each educational service district board shall establish an improvement of teaching coordinating council to include, at a minimum, representatives as specified in RCW 28A.415.040. An existing in-service training task force, established pursuant to RCW 28A.415.040, may serve as the improvement of teaching coordinating council.

The educational service district board shall ensure coordination of programs established pursuant to RCW 28A.415.030, 28A.410.060, and 28A.415.250.

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules and regulations of the state board of education pursuant to RCW 28A.410.060 or the superintendent of public instruction or state board of education pursuant to RCW 28A.415.250. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this title and state board of education rules and regulations relating to teachers' institutes held by educational service district superintendents. [1991 c 285 § 1; 1990 c 33 § 414; 1975-'76 2nd ex.s. c 15 § 18. Prior: 1975 1st ex.s. c 275 § 139; 1975 1st ex.s. c 192 § 2; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100; prior: 1965 c 139 § 21. Formerly RCW 28A.71.100, 28.71.100.]

**Severability—1975 1st ex.s. c 192:** See note following RCW 28A.410.060.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**Transitional bilingual instruction program—In-service training:** RCW 28A.180.040(4).

**28A.415.020 Credit on salary schedule for approved in-service training and continuing education.** (1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the state board of education, the equivalent of a one credit college quarter course on the salary schedule developed

by the legislative evaluation and accountability program committee.

(3) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the state board of education, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education, or both.

(4) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. [1990 c 33 § 415; 1987 c 519 § 1. Formerly RCW 28A.71.110.]

#### **28A.415.030 In-Service Training Act of 1977—**

**Purpose.** In order to provide for the improvement of the instructional process in the public schools and maintain and improve the skills of public school certificated and classified personnel, there is hereby adopted an act to be known as the "In-Service Training Act of 1977". [1977 ex.s. c 189 § 1. Formerly RCW 28A.71.200.]

**Severability—1977 ex.s. c 189:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 189 § 4.]

#### **28A.415.040 In-Service Training Act of 1977—Administration of funds—Rules—Requirements for local districts—In-service training task force.**

The superintendent of public instruction is hereby empowered to administer funds now or hereafter appropriated for the conduct of in-service training programs for public school certificated and classified personnel and to supervise the conduct of such programs. The superintendent of public instruction shall adopt rules in accordance with chapter 34.05 RCW that provide for the allocation of such funds to public school district or educational service district applicants on such conditions and for such training programs as he or she deems to be in the best interest of the public school system: PROVIDED, That each district requesting such funds shall have:

(1) Conducted a district needs assessment, including plans developed at the building level, to be reviewed and updated at least every two years, of certificated and classified personnel to determine identified strengths and weakness of personnel that would be strengthened by such in-service training program;

(2) Demonstrate that the plans are consistent with the goals of basic education;

(3) Established an in-service training task force and demonstrated to the superintendent of public instruction that the task force has participated in identifying in-service training needs and goals; and

(4) Demonstrated to the superintendent of public instruction its intention to implement the recommendations of the needs assessment and thereafter the progress

it has made in providing in-service training as identified in the needs assessment.

The task force required by this section shall be composed of representatives from the ranks of administrators, building principals, teachers, classified and support personnel employed by the applicant school district or educational service district, from the public, and from an institution(s) of higher education, in such numbers as shall be established by the school district board of directors or educational service district board of directors. [1987 c 525 § 301; 1985 c 214 § 1; 1979 c 149 § 10; 1977 ex.s. c 189 § 2. Formerly RCW 28A.71.210.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**Severability—1979 c 149:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 149 § 11.]

**Severability—1977 ex.s. c 189:** See note following RCW 28A.415.030.

**28A.415.050 In-service training programs—Instruction on teaching skills to children to resist and report abuse.** The superintendent of public instruction, the educational service districts, and local school districts are encouraged to devise programs of in-service training for public school certificated and classified personnel who come into contact with students in grades kindergarten through twelve for the purpose of providing instruction on how to effectively teach children the skills to resist and report attempts to abuse them. [1985 c 419 § 2. Formerly RCW 28A.71.220.]

**Severability—1985 c 419:** See note following RCW 28A.305.230.

**28A.415.060 Credits for educational staff associates to fulfill continuing education requirements.** The state board of education rules for continuing education shall provide that educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education requirements established by the state board of education. [1991 c 155 § 1.]

**28A.415.100 Student teaching centers—Legislative recognition—Intent.** (1) The legislature recognizes that:

(a) Strong teacher preparation programs are vital to the success of the state's entire education system;

(b) Clinical field experiences, particularly student teaching, are critical to the developmental preparation of teacher candidates and to the success of teacher preparation programs;

(c) Schools, school districts, educational service districts, and institutions of higher education benefit mutually from cooperative relationships that provide teacher candidates with appropriate, necessary, and successful student teaching experiences that establish continuity between the theory and practice of teaching;

(d) Positive student teaching experiences result from the careful match between cooperating teachers and student teachers;

(e) Teacher candidates should have student teaching opportunities and other field experiences that are reflective of the diversity existing among schools and school districts state-wide; and

(f) School districts state-wide should have access to student teachers.

(2) Therefore, in support of quality, professional, research-based training of prospective teachers, it is the intent of the legislature to continue its support of evolving partnerships among schools, school districts, educational service districts, community colleges, and colleges and universities, that are:

- (a) Benefiting the teaching profession;
- (b) Enhancing the ability of all new teachers to assume initial teaching responsibilities with greater confidence and a higher level of training;
- (c) Providing important and positive mentoring opportunities for experienced teachers; and
- (d) Strengthening cooperation and communication between the precollegiate and collegiate sectors of the state education system. [1991 c 258 § 1.]

**28A.415.105 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.415.110 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a state board of education-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers. [1991 c 258 § 2.]

**28A.415.110 Cooperating teachers.** (1) Cooperating teachers shall provide a source of continuing and sustained assistance, coaching, and support for student teachers, and may participate with supervisors in evaluating student teachers, and shall submit recommendations to the institutions of higher education respecting the competency of the student teacher. Cooperating teachers shall collaborate with their school principals respecting the support, training, and assistance they provide to student teachers.

(2) All student teachers from an institution of higher education whose preparation program has been approved by the state board of education, or has been regionally or nationally accredited, shall be provided a cooperating teacher.

(3) Cooperating teachers will be appointed by school districts in a joint selection process with the institutions of higher education. [1991 c 258 § 3.]

**28A.415.115 Salary stipends for cooperating teachers.** Salary stipends for cooperating teachers shall be paid through supplemental contracts under RCW 28A.400.200(4) and as provided in the state operating appropriations act. [1991 c 258 § 4.]

**28A.415.120 Application of RCW 28A.415.110 and 28A.415.115.** The provisions of RCW 28A.415.110 and 28A.415.115 shall apply to RCW 28A.415.125 through 28A.415.140. [1991 c 258 § 5.]

**28A.415.125 Network of student teaching centers.** The state board of education, from appropriated funds, shall establish a network of student teaching centers to support the continuing development of the field-based component of teacher preparation programs. The purpose of the training centers is to:

(1) Expand opportunities for student teacher placements in school districts state-wide, with an emphasis on those populations and locations that are unserved or underserved;

(2) Provide cooperating teachers for all student teachers during their student internship for up to two academic quarters;

(3) Enhance the student teaching component of teacher preparation programs, including a placement of student teachers in special education and multi-ethnic school settings; and

(4) Expand access to each other and opportunities for collaboration in teacher education between colleges and universities and school districts. [1991 c 258 § 6.]

**28A.415.130 Allocation of funds for student teaching centers.** Funds for the student teaching centers shall be allocated by the superintendent of public instruction among the educational service district regions on the basis of student teaching placements. The fiscal agent for each center shall be either an educational service district or a state institution of higher education. Prospective fiscal agents shall document to the state board of education the following information:

(1) The existing or proposed center was developed jointly through a process including participation by at least one school district, one college or university, and one educational service district;

(2) Primary administration for each center shall be the responsibility of one or more of the cooperating organizations;

(3) Assurance that the training center program provides appropriate and necessary training in observation, supervision, and assistance skills and techniques for:

(a) Cooperating teachers;

(b) Other school building personnel; and

(c) School district employees. [1991 c 258 § 7.]

**28A.415.135 Alternative means of teacher placement.**

The student teaching centers shall be an alternative means of placing teachers into school districts throughout the state. Nothing in RCW 28A.415.100 through 28A.415.140 or 28A.415.250 precludes a higher education institution that is not a participant in a training center from placing student teachers into a district that may be participating formally with other institutions in a student teaching center program, or placing student teachers into districts pursuant to an agreement between the institution and district. [1991 c 258 § 8.]

**28A.415.140 Field experiences.** Field experiences may be provided through a student teaching center. The cost of providing such experiences and opportunities shall be the sole responsibility of the participants cooperating in the operation of the center. [1991 c 258 § 9.]

**28A.415.145 Rules.** The state board of education and the superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the purposes of RCW 28A.415.100 through 28A.415.140. [1991 c 258 § 10.]

**28A.415.200 Minority teacher recruitment program—Intent.** The legislature finds that it is important to have a teaching force that reflects the rich diversity of the students served in the public schools. The legislature further finds that certain groups, as characterized by ethnic background, are traditionally underrepresented in the teaching profession in the state of Washington and that the ethnic diversity of the student population in the state of Washington is increasing. The legislature intends to increase the number of people from underrepresented groups entering our teaching force. [1989 c 146 § 1. Formerly RCW 28A.305.260, 28A.67.250.]

**28A.415.205 Minority teacher recruitment program.**

(1) The Washington state minority teacher recruitment program is established. The program shall be administered by the state board of education. The state board of education shall consult with the higher education coordinating board, representatives of institutions of higher education, education organizations having an interest in teacher recruitment issues, the superintendent of public instruction, the state board for community and technical

colleges, the department of employment security, and the work force training and education coordinating board. The program shall be designed to recruit future teachers from students in the targeted groups who are in the ninth through twelfth grades and from adults in the targeted groups who have entered other occupations.

(2) The program shall include the following:

(a) Encouraging students in targeted groups in grades nine through twelve to acquire the academic and related skills necessary to prepare for the study of teaching at an institution of higher education;

(b) Promoting teaching career opportunities to develop an awareness of opportunities in the education profession;

(c) Providing opportunities for students to experience the application of regular high school course work to activities related to a teaching career; and

(d) Providing for increased cooperation among institutions of higher education including community colleges, the superintendent of public instruction, the state board of education, and local school districts in working toward the goals of the program. [1991 c 238 § 75; 1989 c 146 § 2. Formerly RCW 28A.305.270, 28A.67.260.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28A.415.250 Teacher assistance program—Provision for mentor teachers.** The superintendent of public instruction shall adopt rules to establish and operate a teacher assistance program. For the purposes of this section, the terms "mentor teachers," "beginning teachers," and "experienced teachers" may include any person possessing any one of the various certificates issued by the superintendent of public instruction under RCW 28A.410.010. The program shall provide for:

(1) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers, or both, both in and outside the classroom. A mentor teacher may not be involved in evaluations under RCW 28A.405.100 of a teacher who receives assistance from said mentor teacher under the teacher assistance program established under this section. The mentor teachers shall also periodically inform their principals respecting the contents of training sessions and other program activities;

(2) Stipends for mentor teachers and beginning teachers which shall not be deemed compensation for the purposes of salary lid compliance under \*RCW 28A.58-.095: PROVIDED, That stipends shall not be subject to the continuing contract provisions of this title;

(3) Workshops for the training of mentor and beginning teachers;

(4) The use of substitutes to give mentor teachers, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor teachers opportunities to observe and assist beginning and experienced teachers in the classroom;

(5) Mentor teachers who are superior teachers based on their evaluations, pursuant to RCW 28A.405.010 through 28A.405.240, and who hold valid continuing certificates;

(6) Mentor teachers shall be selected by the district. If a bargaining unit, certified pursuant to RCW 41.59-.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process; and

(7) Periodic consultation by the superintendent of public instruction or the superintendent's designee with representatives of educational organizations and associations, including educational service districts and public and private institutions of higher education, for the purposes of improving communication and cooperation and program review. [1991 c 116 § 19; 1990 c 33 § 403; 1987 c 507 § 1; 1985 c 399 § 1. Formerly RCW 28A.405.450, 28A.67.240.]

\*Reviser's note: RCW 28A.58.095 was repealed by 1987 1st ex.s. c 2 § 211.

Effective date—1987 c 507: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 15, 1987." [1987 c 507 § 4.]

### Chapter 28A.500

#### LOCAL EFFORT ASSISTANCE

##### Sections

28A.500.010 Local assistance funds—Definitions—Allocation.

**28A.500.010 Local assistance funds—Definitions—Allocation.** (1) Commencing with taxes assessed in 1988 to be collected in calendar year 1989 and thereafter, in addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds as provided in this section. Such funds are not part of the district's basic education allocation. For the first distribution of local effort assistance funds provided under this section in calendar year 1989, state funds may be prorated according to the formula in this section.

(2) (a) "Prior tax collection year" shall mean the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) The "state-wide average ten percent levy rate" shall mean ten percent of the total levy bases as defined in RCW 84.52.0531(4) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "ten percent levy rate" of a district shall mean:

(i) Ten percent of the district's levy base as defined in RCW 84.52.0531(4), plus one-half of any amount computed under RCW 84.52.0531(3)(b) in the case of non-high school districts; divided by

(ii) The district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(d) "Eligible districts" shall mean those districts with a ten percent levy rate which exceeds the state-wide average ten percent levy rate.

(3) Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(a) Funds raised by the district through maintenance and operation levies during that tax collection year shall be matched with state funds using the following ratio of state funds to levy funds: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; to (ii) the state-wide average ten percent levy rate.

(b) The maximum amount of state matching funds for which a district may be eligible in any tax collection year shall be ten percent of the district's levy base as defined in RCW 84.52.0531(4), multiplied by the following percentage: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; divided by (ii) the district's ten percent levy rate.

(4) Fifty-five percent of local effort assistance funds shall be distributed to qualifying districts during the applicable tax collection year on or before June 30 and forty-five percent shall be distributed on or before December 31 of any year. [1987 1st ex.s. c 2 § 102. Formerly RCW 28A.41.155.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

### Chapter 28A.505

#### SCHOOL DISTRICTS BUDGETS

##### Sections

- 28A.505.010 Definitions.
- 28A.505.020 Districts must utilize methods of revenue and expenditure recognition.
- 28A.505.030 District fiscal year.
- 28A.505.040 Budget—When prepared—Contents.
- 28A.505.050 Budget—Notice of completion and of hearing—Copies for the public—ESD review, when.
- 28A.505.060 Budget—Hearing and adoption of—Copies filed with ESD's.
- 28A.505.070 Budget review committee—Members—Review of budget, limitations.
- 28A.505.080 Budget—Disposition of copies.
- 28A.505.090 Budget—Format, classifications, mandatory.
- 28A.505.100 Budget—Contents—Display of salaries.
- 28A.505.110 Budget—Including receivables collectible in future years—Limitations.
- 28A.505.120 Withholding state funds upon district noncompliance—Notice of.
- 28A.505.130 Budget—Requirements for balancing estimated expenditures.
- 28A.505.140 Rules and regulations for budgetary procedures—Review when superintendent determines budget irregularity—Revised budget, state board's financial plan until adoption.
- 28A.505.150 Budgeted expenditures as appropriations—Interim expenditures—Transfer between budget classes—Liability for nonbudgeted expenditures.
- 28A.505.160 Appropriations lapse at end of fiscal year—Exception.
- 28A.505.170 First class school districts—Emergency or additional appropriation resolutions—Procedure.
- 28A.505.180 Second class school districts—Additional appropriation resolutions—Procedure.
- 28A.505.190 Repealed.
- 28A.505.200 Repayment of federal moneys—Federal disallowance determination.

**28A.505.010 Definitions.** The following terms when used in this chapter shall have the following meanings, unless where used the context thereof shall clearly indicate to the contrary:

(1) "Revenue" means an addition to assets of a fund of a school district during a fiscal period that is available to finance the fund's expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash or in the form of noncash assets such as donated commodities. Revenue for accrual basis expenditure funds is limited to amounts received in cash or noncash donations plus or minus adjustments for revenue accruals.

(2) "Accrual basis expenditures" mean expenditures incurred during a given fiscal period, whether paid or unpaid.

(3) "Cash basis expenditures" mean actual disbursements during a given fiscal period except for debt service, regardless of when liabilities are incurred, or the period of incurrence of expenditures.

(4) "Cash basis revenue" means actual receipt of revenue not adjusted for revenue accruals.

(5) "Revenue accruals" means those revenues anticipated to be received in cash after the close of the fiscal period that represent reimbursement for expenditures incurred by the end of the fiscal period.

(6) "Appropriation" means the maximum authorization during a given fiscal period to incur expenditures.

(7) "Disbursements" mean payments in cash, including but not limited to issuance of warrants. [1983 c 59 § 1; 1975-'76 2nd ex.s. c 118 § 1. Formerly RCW 28A.65.400.]

**Application—Effective date—1983 c 59:** "This act shall apply to school district budgets, financial statements, and bookkeeping and accounting procedures, practices, and principles beginning with fiscal year 1983-'84 starting September 1, 1983. This act shall take effect September 1, 1983." [1983 c 59 § 19.]

**Severability—1983 c 59:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 59 § 20.]

**Severability—1975-'76 2nd ex.s. c 118:** "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 118 § 37.]

**28A.505.020 Districts must utilize methods of revenue and expenditure recognition.** All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting and financial reporting:

(1) Recognize revenue as defined in RCW 28A.505.010(1) for all funds: PROVIDED, That school districts that elect the cash basis of expenditure recognition under subsection (2) of this section shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: PROVIDED, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the

cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year. [1990 c 33 § 416; 1983 c 59 § 2; 1980 c 18 § 1; 1975-'76 2nd ex.s. c 118 § 2. Formerly RCW 28A.65.405.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.030 District fiscal year.** Beginning September 1, 1977 the fiscal year for all school districts shall be September 1 through August 31. [1975-'76 2nd ex.s. c 118 § 3. Formerly RCW 28A.65.410.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.040 Budget—When prepared—Contents.** On or before the tenth day of July in each year, all school districts shall prepare their budget for the ensuing fiscal year. The budget shall set forth the complete financial plan of the district for the ensuing fiscal year. [1975-'76 2nd ex.s. c 118 § 4. Formerly RCW 28A.65.415.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.050 Budget—Notice of completion and of bearing—Copies for the public—ESD review, when.** Upon completion of their budgets as provided in RCW 28A.505.040, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public not later than July 20th in the first class school districts, and not later than July 15th in second class school districts. School districts shall submit one copy of their budget to their educational service districts for review and comment by these dates. [1990 c 33 § 417; 1983 c 59 § 3; 1975-'76 2nd ex.s. c 118 § 5. Formerly RCW 28A.65.420.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.060 Budget—Hearing and adoption of—Copies filed with ESD's.** On the date given in said notice as provided in RCW 28A.505.050 the school district board of directors shall meet at the time and place designated. Any person may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days: **PROVIDED,** That the budget must be adopted no later than August 31st in first class school districts, and not later than August 1st in second class school districts.

Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board: **PROVIDED,** That first class school districts shall file copies of their adopted budget with their educational service district no later than September 3rd, and second class school districts shall forward copies of their adopted budget to their educational service district no later than August 3rd for review, alteration and approval as provided for in RCW 28A.505.070 by the budget review committee. [1990 c 33 § 418; 1983 c 59 § 4; 1975-'76 2nd ex.s. c 118 § 6. Formerly RCW 28A.65.425.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.070 Budget review committee—Members—Review of budget, limitations.** The budget review committee shall fix and approve the amount of the appropriation from each fund of the budget of second class districts not later than August 31st. No budget review committee shall knowingly approve any budget or appropriation that is in violation of this chapter or rules and regulations adopted by the superintendent of public instruction in accordance with RCW 28A.505.140(1). A copy of said budget shall be returned to the local school districts no later than September 10th.

Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local school district board of directors or a representative thereof, and a representative of the superintendent of public instruction. [1990 c 33 § 419; 1975-'76 2nd ex.s. c 118 § 7. Formerly RCW 28A.65.430.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.080 Budget—Disposition of copies.** Copies of the budgets for all local school districts shall be filed with the superintendent of public instruction no later than September 10th. One copy will be retained by the educational service district. [1984 c 128 § 8; 1983 c

59 § 5; 1975-'76 2nd ex.s. c 118 § 8. Formerly RCW 28A.65.435.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.090 Budget—Format, classifications, mandatory.** Every school district budget shall be prepared, submitted and adopted in the format prescribed by the office of the superintendent of public instruction. The budget classifications contained in said format shall be in accordance with the accounting manual for public school districts, published by the office of the superintendent of public instruction and the office of the state auditor. Budgets prepared and adopted in a format other than that prescribed by the office of the superintendent of public instruction shall not be official and will have no legal effect. [1983 c 59 § 6; 1975-'76 2nd ex.s. c 118 § 9. Formerly RCW 28A.65.440.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.100 Budget—Contents—Display of salaries.** The budget shall set forth the estimated revenues for the ensuing fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual revenues for the last completed fiscal year, and the reserved and unreserved fund balances for each year. The estimated revenues from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be available during that fiscal year: **PROVIDED,** That school districts, pursuant to RCW 28A.505.110 can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

The budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual expenditures for the last completed fiscal year. Total salary amounts, full-time equivalents, and the high, low, and average annual salaries, shall be displayed by job classification within each budget classification. If individual salaries within each job classification are not displayed, districts shall provide the individual salaries together with the title or position of the recipient and the total amounts of salary under each budget class upon request. Salary schedules shall be displayed. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance. [1990 c 33 § 420; 1983 c 59 § 7; 1975-'76 2nd ex.s. c 118 § 10. Formerly RCW 28A.65.445.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**28A.505.110 Budget—Including receivables collectible in future years—Limitations.** When a school district board is unable to prepare a budget or budget extension pursuant to RCW 28A.505.170 or 28A.505.180 in which the estimated revenues for the budgeted fiscal year plus the estimated fund balance at the beginning of the budgeted fiscal year less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal year, the school district board may deliver a petition in writing, at least twenty days before the budget or budget extension is scheduled for adoption, to the superintendent of public instruction requesting permission to include receivables collectible in future years, in order to balance the budget. If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district, designed to improve the district's financial condition. Any budget or appropriation adopted by the board of directors without written permission from the superintendent of public instruction that contains estimated expenditures in excess of the total of estimated revenue for the budgeted fiscal year plus estimated fund balance at the beginning of the budgeted fiscal year less ending reserve fund balance for the budgeted fiscal year shall be null and void and shall not be considered an appropriation. [1990 c 33 § 421; 1983 c 59 § 8; 1975-'76 2nd ex.s. c 118 § 11. Formerly RCW 28A.65.450.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.120 Withholding state funds upon district noncompliance—Notice of.** If a local school district fails to comply with any binding restrictions issued by the superintendent of public instruction, the allocation of state funds for support of the local school district may be withheld, pending an investigation of the reason for such noncompliance by the office of the superintendent of public instruction. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld. [1975-'76 2nd ex.s. c 118 § 12. Formerly RCW 28A.65.455.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.130 Budget—Requirements for balancing estimated expenditures.** For each fund contained in the school district budget the estimated expenditures for the budgeted fiscal year must not be greater than the total of the estimated revenues for the budgeted fiscal year, the estimated fund balance at the beginning of the budgeted fiscal year less the estimated reserve fund balance at the end of the budgeted fiscal year, and the projected revenue from receivables collectible on future

years as approved by the superintendent of public instruction for inclusion in the budget.

The proceeds of any interfund loan must not be used to balance the budget of the borrowing fund. [1983 c 59 § 9; 1975-'76 2nd ex.s. c 118 § 13. Formerly RCW 28A.65.460.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.140 Rules and regulations for budgetary procedures—Review when superintendent determines budget irregularity—Revised budget, state board's financial plan until adoption.** (1) Notwithstanding any other provision of law, the superintendent of public instruction is hereby directed to promulgate such rules and regulations as will insure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this chapter or by rules and regulations promulgated by the superintendent of public instruction, or the provisions of RCW 43.09.200, the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section. [1990 c 33 § 422; 1983 c 59 § 10; 1975-'76 2nd ex.s. c 118 § 14. Formerly RCW 28A.65.465.]

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

**28A.505.150 Budgeted expenditures as appropriations—Interim expenditures—Transfer between budget classes—Liability for nonbudgeted expenditures.** Total budgeted expenditures for each fund as adopted in the budget of a school district shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the

incurring of expenditures to the grand total of such appropriations. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: PROVIDED, That no board of directors shall be prohibited from incurring expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for their participation in joint purchasing agencies authorized in RCW 28A.320.080 during the interim while the budget is being settled under RCW 28A.505.140: PROVIDED FURTHER, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any civil or criminal action the violation is found to have been done knowingly, such director, officer, or employee who is found to have participated in such breach shall immediately forfeit his or her office or employment, and the judgment in any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry out the provisions of RCW 43.09.260, as now or hereafter amended. [1990 c 33 § 423; 1975-'76 2nd ex.s. c 118 § 15. Formerly RCW 28A.65.470.]

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**28A.505.160 Appropriations lapse at end of fiscal year—Exception.** All appropriations for any school district upon which their budget is based shall lapse at the end of the fiscal year. At the expiration of said period all appropriations shall become null and void and any claim presented thereafter against any such appropriation for the fiscal year just closed shall be provided for in the appropriation for the next fiscal year: PROVIDED, That this shall not prevent payments upon incomplete improvements in progress at the close of the fiscal year. [1975-'76 2nd ex.s. c 118 § 16. Formerly RCW 28A.65.475.]

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**28A.505.170 First class school districts—Emergency or additional appropriation resolutions—Procedure.** (1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the

board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before incurring expenditures in excess of the appropriation, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Copies of all adopted appropriation resolutions shall be filed with the educational service district who shall forward one copy each to the office of the superintendent of public instruction. One copy shall be retained by the educational service district. [1990 c 33 § 424; 1984 c 128 § 9; 1983 c 59 § 11; 1975-'76 2nd ex.s. c 118 § 17. Formerly RCW 28A.65.480.]

**Application—Effective date—Severability**—1983 c 59: See notes following RCW 28A.505.010.

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**28A.505.180 Second class school districts—Additional appropriation resolutions—Procedure.** Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the appropriation from any fund for any reason, the school district board of directors, before incurring expenditures in excess of appropriation, shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

Copies of all appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district. [1990 c 33 § 425; 1984 c 128 § 10; 1983 c 59 § 12; 1975-'76 2nd ex.s. c 118 § 18. Formerly RCW 28A.65.485.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**28A.505.190 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.505.200 Repayment of federal moneys—Federal disallowance determination.** Each school district that receives federal moneys from or through the superintendent of public instruction shall comply with applicable federal requirements and shall repay expenditures subsequently disallowed by the federal government together with such interest as may be assessed by the federal government. Once a federal disallowance determination, decision, or order becomes final respecting federal moneys expended by a school district, the superintendent of public instruction may withhold all or a portion of the annual basic education allocation amounts otherwise due and apportionable to the school district as necessary to facilitate payment of the principal and interest to the federal government. The superintendent of public instruction may pay withheld basic education allocation moneys:

(1) To the school district before the close of the biennium and following the school district's repayment of moneys due the federal government, or the school district's commitment to an acceptable repayment plan, or both; or

(2) To the federal government, subject to the reapportionment of the withheld basic education allocation, moneys for the purpose of payment to the federal government.

No withholding of basic education allocation moneys may occur under this subsection until the superintendent of public instruction has first determined that the withholding should not substantially impair the school district's financial ability to provide the basic education program offerings required by statute. [1990 c 103 § 1.]

**Chapter 28A.510**

**APPORTIONMENT TO DISTRICT—DISTRICT ACCOUNTING**

Sections

- 28A.510.250 By state superintendent.
- 28A.510.260 Distribution by ESD superintendent.
- 28A.510.270 County treasurer's duties.

**28A.510.250 By state superintendent.** On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

September .....	9%
October .....	9%

November .....	5.5%
December .....	9%
January .....	9%
February .....	9%
March .....	9%
April .....	9%
May .....	5.5%
June .....	6.0%
July .....	10.0%
August .....	10.0%

The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: **PROVIDED**, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If the superintendent determines in the affirmative, he or she may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: **PROVIDED**, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced. [1990 c 33 § 426; 1982 c 136 § 1; 1981 c 282 § 1; 1981 c 5 § 32; 1980 c 6 § 5; 1979 ex.s. c 237 § 1; 1975-'76 2nd ex.s. c 118 § 27; 1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28A.48.010, 28.48.010.]

**Certain 1982-83 school year monthly payments delayed—Interest—1982 c 136:** "For the 1982-83 school year, one-half of the September, October, March, and April payments under RCW 28A.48.010 shall be made on the last business day of the respective month and the remainder on the fifteenth day of the following month. Interest shall be paid on the amounts deferred under this section at the rate for state interfund loans as established by the state finance committee." [1982 c 136 § 2.]

**Effective date—1982 c 136:** "Section 3 of this act is necessary for the immediate preservation of the public peace, health, and safety, the

support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1982]. The remainder to [of] this act shall take effect September 1, 1982." [1982 c 136 § 5.]

**Severability**—1980 c 6: See note following RCW 28A.515.320.

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**Effective date**—1972 ex.s. c 146: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and section 1 shall take effect July 1, 1972, and section 2 shall take effect immediately [February 25, 1972]." [1972 ex.s. c 146 § 3.]

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**Student transportation allocation**—**Notice**—**Revised eligible student data, when**—**Allocation payments, amounts, when:** RCW 28A.160.190.

**Student transportation vehicle acquisition allocation**—**Reimbursement schedule**—**Depreciation schedule:** RCW 28A.160.200.

### 28A.510.260 Distribution by ESD superintendent.

Upon receiving the certificate of apportionment from the superintendent of public instruction the educational service district superintendent shall promptly apportion to the school districts of his or her educational service district the amounts then due and apportionable to such districts as certified by the superintendent of public instruction. [1990 c 33 § 427; 1983 c 56 § 5; 1975 1st ex.s. c 275 § 68; 1969 ex.s. c 176 § 109; 1969 ex.s. c 223 § 28A.48.030. Prior: 1965 ex.s. c 162 § 2; 1945 c 141 § 9; Rem. Supp. 1945 § 4940-8. Formerly RCW 28A.48.030, 28.48.030.]

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

**28A.510.270 County treasurer's duties.** The county treasurer of each county of this state shall be ex officio treasurer of the several school districts of their respective counties, and, except as otherwise provided by law, it shall be the duty of each county treasurer:

(1) To receive and hold all moneys belonging to such school districts, and to pay them only for legally authorized obligations of the district.

(2) To prepare and submit to each school district superintendent in the county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh business day of the month, which report shall contain the balance on hand the first of the preceding month, the funds paid in, warrants paid with interest thereon, if any, the number of warrants issued and not paid, and the balance on hand.

(3) The treasurer of each county shall submit a statement of all canceled warrants of districts to the respective school district superintendents. The canceled warrants of each district shall be preserved separately and shall at all times be open to inspection by the school district superintendent or by any authorized accountant of such district. [1991 c 245 § 2; 1990 c 33 § 428; 1975-'76 2nd ex.s. c 118 § 28; 1975 1st ex.s. c 275 § 73; 1969 ex.s. c 176 § 114; 1969 ex.s. c 223 § 28A.48.100. Prior: 1911 c 85 § 1; 1909 c 97 p 309 § 1; RRS § 4867; prior: 1907 c 240 § 8; 1897 c 118 § 59; 1893 c 109 § 8; 1891 c

127 § 27; 1890 p 380 § 71; 1886 p 26 § 83; Code 1881 § 3236. Formerly RCW 28A.48.100, 28.48.100.]

**Severability**—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

**Rights preserved**—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.310.010.

## Chapter 28A.515

### COMMON SCHOOL CONSTRUCTION FUND

#### Sections

28A.515.300 Permanent common school fund—Sources—Use.

28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state.

28A.515.320 Common school construction fund—Sources—Use—Excess moneys in, availability, repayment.

**28A.515.300 Permanent common school fund—Sources—Use.** The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five percent of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided by legislative enactment. [1969 ex.s. c 223 § 28A.40.010. Prior: 1967 c 29 § 1; 1909 c 97 p 320 § 1; RRS § 4932; prior: 1897 c 118 § 109; 1890 p 373 § 50; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1. Formerly RCW 28A.40.010, 28.40.010.]

*Banks and trust companies, liquidation and winding up dividends unclaimed deposited in:* RCW 30.44.150, 30.44.180.  
*personal property, proceeds deposited in:* RCW 30.44.220.

*Enlargement of, legislature may provide:* State Constitution Art. 9 § 3 (Amendment 43).

*Escheated estates deposited in:* RCW 11.08.210.

*Game and game fish lands*

*payments to in lieu of property taxes: RCW 77.12.203.  
withdrawn from lease, payment of amount of lease into: RCW 77.12.360.*

*Interest deposited in current state school fund used for current expenses: State Constitution Art. 9 § 3 (Amendment 43).*

*Investment of permanent common school fund: State Constitution Art. 16 § 5 (Amendment 44).*

*Lands set aside and permanent funds established: Enabling act §§ 10 through 25.*

*Losses occasioned by default, fraud, etc., to become permanent debt against state: State Constitution Art. 9 § 5.*

*Permanent and irreducible: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.515.300.*

*Safe deposit box contents*

*rent unpaid, sale, proceeds deposited in: RCW 22.28.040.*

*unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.*

*School funds enumerated—Deposits—Uses: RCW 28A.320.330.*

*State land*

*acquired, lease and sale of, disposition of proceeds: RCW 79.01.612.*

*withdrawn for game purposes, payment of amount of lease into: RCW 77.12.360.*

**28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state.** All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six percent annual interest shall be paid. [1969 ex.s. c 223 § 28A.40.020. Prior: 1909 c 97 p 321 § 2; RRS § 4933; prior: 1897 c 118 § 110, part; 1890 p 373 § 51, part. Formerly RCW 28A.40.020, 28.40.020.]

**28A.515.320 Common school construction fund—Sources—Use—Excess moneys in, availability, repayment.** The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund less the allocations to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated, except moneys received before June 30, 2001, and when thirty megawatts of geothermal power is certified as commercially available by the receiving utilities and the state energy office, eighty percent of such moneys, under the Geothermal Steam Act of 1970 pursuant to RCW 43.140.030; and (4) such other sources as the legislature may direct. That portion

of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund less the allocations to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income foregone, before the end of the next fiscal biennium following such use. [1991 1st sp.s. c 13 § 58; 1991 c 76 § 2; 1981 c 158 § 6; 1981 c 4 § 1; 1980 c 6 § 1; 1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28A.40.100, 28.40.100.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Severability—1981 c 4:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 4 § 10.]

**Severability—1980 c 6:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 6 § 8.]

**Current state school fund—Abolished—Moneys transferred:** RCW 43.79.425.

## Chapter 28A.520

### FOREST RESERVE FUNDS DISTRIBUTION

#### Sections

- 28A.520.010 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when.  
28A.520.020 Distribution of forest reserve funds—Revolving account created—Use—Apportionments from—As affects basic education allocation.

**28A.520.010 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when.** Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads, and fifty percent shall be spent by the counties on public schools as provided in RCW 28A.520.020(2), or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. Where the reserve is

situated in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him or her to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties. The county legislative authority shall expend the fifty percent received by the county for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law. [1990 c 33 § 429; 1985 c 311 § 1; 1982 c 126 § 1. Formerly RCW 28A.02.300.]

**Effective date**—1982 c 126: "This act shall take effect July 1, 1983." [1982 c 126 § 5.]

**Severability**—1982 c 126: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 126 § 4.]

**28A.520.020 Distribution of forest reserve funds—Revolving account created—Use—Apportionments from—As affects basic education allocation.** (1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500,

United States Code, as now existing or hereafter amended. [1991 1st sp.s. c 13 § 113; 1990 c 33 § 430; 1985 c 311 § 2; 1982 c 126 § 2. Formerly RCW 28A.02.310.]

**Effective dates**—**Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Effective date**—**Severability**—1982 c 126: See notes following RCW 28A.520.010.

## Chapter 28A.525 BOND ISSUES

### Sections

- 28A.525.010 Statement of intent.
- 28A.525.020 Duties of state board of education.
- 28A.525.030 Modernization of existing school facilities.
- 28A.525.040 Portable buildings or classrooms.
- 28A.525.050 Applications for aid—Rules and regulations—Recommendations.
- 28A.525.060 Manual—Contents—Preparation and revision.
- 28A.525.070 State superintendent to assist districts and state board.
- 28A.525.080 Federal grants—Rules and regulations.
- 28A.525.100 through 28A.525.116 Repealed.
- 28A.525.120 1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc.
- 28A.525.122 1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use.
- 28A.525.124 1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge.
- 28A.525.126 1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.
- 28A.525.128 1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged.
- 28A.525.130 1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security.
- 28A.525.132 1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education.
- 28A.525.134 1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations.
- 28A.525.140 1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms.
- 28A.525.142 1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use.
- 28A.525.144 1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge.
- 28A.525.146 1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.

- 28A.525.148 1969 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue.
- 28A.525.150 1969 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security.
- 28A.525.152 1969 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of state board of education.
- 28A.525.154 1969 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations.
- 28A.525.156 Bonds authorized under RCW 28A.525.120 through 28A.525.154 may be refunded—Security.
- 28A.525.158 Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154.
- 28A.525.160 1969 appropriation for construction, modernization of school plant facilities.
- 28A.525.162 Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules.
- 28A.525.164 Allotment of appropriations for school plant facilities—Duties of board.
- 28A.525.166 Allotment of appropriations for school plant facilities—Basis of state aid for school plant.
- 28A.525.168 Allotment of appropriations for school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility.
- 28A.525.170 Allotment of appropriations for school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district.
- 28A.525.172 Allotment of appropriations for school plant facilities—Application by district for state assistance—Studies and surveys by state board.
- 28A.525.174 Allotment of appropriations for school plant facilities—Manual, other materials to guide and provide information to district.
- 28A.525.176 Allotment of appropriations for school plant facilities—State board to provide district with consultative, advisory service.
- 28A.525.178 Allotment of appropriations for school plant facilities—Modifiable basic or standard plans for school buildings.
- 28A.525.180 Allotment of appropriations for school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas.
- 28A.525.182 Allotment of appropriations for school plant facilities—Permissible allocations.
- 28A.525.190 Board limited when prioritizes construction.
- 28A.525.200 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.
- 28A.525.210 1984 bond issue for construction, modernization of school plant facilities—Intent.
- 28A.525.212 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale.
- 28A.525.214 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use.
- 28A.525.216 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education.
- 28A.525.218 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds.
- 28A.525.220 1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment.
- 28A.525.222 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds.
- 28A.525.230 Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions.
- 28A.525.240 Bond anticipation notes—Authorized—Payment.
- 28A.525.250 Form, terms, conditions, sale and covenants of bonds and notes.
- 28A.525.260 Disposition of proceeds from sale of bonds and notes—Use.
- 28A.525.270 State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure.
- 28A.525.280 Bonds as legal investment for public funds.
- 28A.525.290 Chapter provisions as limited by other statutes, covenants and proceedings.
- 28A.525.300 Proceeds from sale of bonds as compensation for sale of timber from trust lands.

**28A.525.010 Statement of intent.** It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities. [1969 ex.s. c 223 § 28A.47.050. Prior: 1947 c 278 § 1; Rem. Supp. 1947 § 4940-12. Formerly RCW 28A.47.050, 28.47.050.]

**28A.525.020 Duties of state board of education.** The state board of education shall have the power and it shall be its duty (1) to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever the board deems such action advisable and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the state board. [1969 ex.s. c 223 § 28A.47.060. Prior: 1947 c 278 § 2; Rem. Supp. 1947 § 4940-13. Formerly RCW 28A.47.060, 28.47.060.]

**28A.525.030 Modernization of existing school facilities.** Whenever funds are appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such

funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose. [1980 c 154 § 17; 1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW 28A.47.073, 28.47.073.]

~~Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82-.45 RCW digest.~~

**28A.525.040 Portable buildings or classrooms.** State matching funds shall not be denied to any school district undertaking any construction, repairs or improvements for school district purposes solely on the ground that said construction, repairs and improvements are in connection with portable buildings or classrooms. [1969 ex.s. c 223 § 28A.47.075. Prior: 1953 c 158 § 1. Formerly RCW 28A.47.075, 28.47.075.]

**28A.525.050 Applications for aid—Rules and regulations—Recommendations.** All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the aforesaid officer for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the aforesaid applications shall be submitted to the state board of education by the superintendent of public instruction together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board. [1969 ex.s. c 223 § 28A.47-.080. Prior: 1947 c 278 § 4; Rem. Supp. 1947 § 4940-15. Formerly RCW 28A.47.080, 28.47.080.]

**28A.525.060 Manual—Contents—Preparation and revision.** It shall be the duty of the superintendent of public instruction, in consultation with the Washington state department of social and health services, to prepare, and so often as the superintendent deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.525.010 through 28A.525.080 and 28A.335.230; (2) procedures in inaugurating and conducting a school

plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW 28A.525.010 through 28A.525.080 and 28A.335.230. [1990 c 33 § 431; 1979 c 141 § 36; 1969 ex.s. c 223 § 28A.47.090. Prior: 1947 c 278 § 5; Rem. Supp. 1947 § 4940-16. Formerly RCW 28A.47.090, 28.47.090.]

**28A.525.070 State superintendent to assist districts and state board.** The superintendent of public instruction shall furnish (1) to school districts seeking state assistance consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board. [1985 c 136 § 1; 1969 ex.s. c 223 § 28A.47.100. Prior: 1947 c 278 § 6; Rem. Supp. 1947 § 4940-17. Formerly RCW 28A.47-.100, 28.47.100.]

**28A.525.080 Federal grants—Rules and regulations.** Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules and regulations which the state board of education shall establish. [1969 ex.s. c 223 § 28A.47.120. Prior: 1947 c 278 § 8; Rem. Supp. 1947 § 4940-19. Formerly RCW 28A.47.120, 28.47.120.]

**28A.525.100 through 28A.525.116 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.525.120 1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc.** For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-two million dollars to be paid and discharged in accordance with terms to be established by the finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the

twenty-two million dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.120 through 28A.525.134 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.120 through 28A.525.134 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1990 c 33 § 440; 1970 ex.s. c 15 § 26; 1969 c 77 § 4; 1969 ex.s. c 223 § 28A.47.784. Prior: 1967 ex.s. c 56 § 1. Formerly RCW 28A.47.784.]

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**28A.525.122 1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use.** The common school

building construction account of the general fund is hereby created as an account of the general fund and the proceeds from the sale of the bonds authorized by RCW 28A.525.120 through 28A.525.134 shall be deposited therein and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1990 c 33 § 441; 1969 ex.s. c 223 § 28A.47.785. Prior: 1967 ex.s. c 56 § 2. Formerly RCW 28A.47.785, 28.47.785.]

**28A.525.124 1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge.** Bonds issued under the provisions of RCW 28A.525.120 through 28A.525.134 shall distinctly state that they are not a general obligation bond of the state, but are payable in the manner provided in RCW 28A.525.120 through 28A.525.134 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.120 through 28A.525.134. [1990 c 33 § 442; 1969 ex.s. c 223 § 28A.47.786. Prior: 1967 ex.s. c 56 § 3. Formerly RCW 28A.47.786, 28.47.786.]

*Common school construction fund: Chapter 28A.515 RCW.*

**28A.525.126 1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.** The common school building bond redemption fund of 1967 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer

and payment of funds as directed herein. [1990 c 33 § 443; 1969 c 77 § 5; 1969 ex.s. c 223 § 28A.47.787. Prior: 1967 ex.s. c 56 § 4. Formerly RCW 28A.47.787.]

**28A.525.128 1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged.** The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.120 through 28A.525.134 from any source or sources not prohibited by the state Constitution and RCW 28A.525.120 through 28A.525.134 shall not be deemed to provide an exclusive method of payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of general credit of the state of Washington. [1990 c 33 § 444; 1969 c 77 § 6; 1969 ex.s. c 223 § 28A.47.788. Prior: 1967 ex.s. c 56 § 5. Formerly RCW 28A.47.788.]

**28A.525.130 1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security.** The bonds authorized in RCW 28A.525.120 through 28A.525.134 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1990 c 33 § 445; 1969 ex.s. c 223 § 28A.47.789. Prior: 1967 ex.s. c 56 § 6. Formerly RCW 28A.47.789, 28.47.789.]

**28A.525.132 1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education.** For the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 funds appropriated to the state board of education from the common school building construction account of the general fund or the common school construction fund shall be allotted by the state board of education in accordance with the provisions of \*RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1990 c 33 § 446; 1969 ex.s. c 223 § 28A.47.790. Prior: 1967 ex.s. c 56 § 7. Formerly RCW 28A.47.790, 28.47.790.]

\*Reviser's note: RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

**28A.525.134 1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations.** There is hereby appropriated to the state board of education the following sums, or so much thereof as may be necessary, for the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134: (1) Twenty-two million dollars from the common school building construction account and (2) twenty-nine million seven hundred forty-four thousand five hundred and fifty-four dollars from the common school construction fund including three million for modernization of existing school facilities.

In accordance with RCW 28A.525.132, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 the sum of sixty-three million nine hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section: PROVIDED FURTHER, That no part of the allocation provided in this section in excess of the total amount appropriated by RCW 28A.525.120 through 28A.525.134 shall be allocated unless joint agreement of its necessity shall be determined by the governor and the superintendent of public instruction. [1990 c 33 § 447; 1969 ex.s. c 223 § 28A.47.791. Prior: 1967 ex.s. c 56 § 8. Formerly RCW 28A.47.791, 28.47.791.]

**28A.525.140 1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms.** For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-two million five hundred thousand dollars to be paid and discharged in accordance with terms to be established by the state finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-six million four hundred thousand dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.140 through 28A.525.154 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and

interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.140 through 28A.525.154 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1990 c 33 § 448; 1985 ex.s. c 4 § 11; 1974 ex.s. c 108 § 1; 1971 ex.s. c 4 § 1; 1969 c 13 § 1. Formerly RCW 28A.47.792, 28.47.792.]

**Severability—1985 ex.s. c 4:** See RCW 43.99G.900.

**Severability—1969 c 13:** "If any section, paragraph, sentence, clause, phrase or word of this 1969 act shall be held to be invalid or unconstitutional, such 1969 act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this 1969 act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this 1969 act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 c 13 § 9.]

*Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154:* RCW 28A.525.158.

**28A.525.142 1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use.** The proceeds from the sale of the bonds authorized herein shall be deposited in the common school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of \*RCW 28A.47.742 through 28A.47.748, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 c 13 § 2. Formerly RCW 28A.47.793, 28.47.793.]

\*Reviser's note: RCW 28A.47.742 through 28A.47.748 were repealed by 1983 c 189 § 1.

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.144 1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source of payment of—Pledge.** Bonds issued under the provisions of RCW 28A.525.140 through 28A.525.154 shall distinctly state that they are a general obligation bond of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on such bonds shall be first payable in the manner provided in RCW 28A.525.140 through 28A.525.154 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.140 through 28A.525.154. [1990 c 33 § 449; 1974 ex.s. c 108 § 2; 1969 c 13 § 3. Formerly RCW 28A.47.794, 28.47.794.]

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.146 1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.** The common school building bond redemption fund of 1967 has been created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1990 c 33 § 450; 1971 ex.s. c 4 § 2; 1969 c 13 § 4. Formerly RCW 28A.47.795, 28.47.795.]

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.148 1969 bond issue for construction, modernization of school plant facilities—**Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.140 through 28A.525.154 from any source or sources not prohibited by the state Constitution and RCW 28A.525.140 through 28A.525.154 shall not be deemed to provide an exclusive method of payment. [1990 c 33 § 451; 1974 ex.s. c 108 § 3; 1971 ex.s. c 4 § 3; 1969 c 13 § 5. Formerly RCW 28A.47.796, 28.47.796.]

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.150 1969 bond issue for construction, modernization of school plant facilities—**Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 c 13 § 6. Formerly RCW 28A.47.797, 28.47.797.]

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.152 1969 bond issue for construction, modernization of school plant facilities—**Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of state board of education. For the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 funds appropriated to the state board of education from the common school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of \*RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1990 c 33 § 452; 1969 c 13 § 7. Formerly RCW 28A.47.798, 28.47.798.]

\*Reviser's note: RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.154 1969 bond issue for construction, modernization of school plant facilities—**Appropriations to state board of education—Allocation of, limitations. There is hereby appropriated to the state board of education the following sums or so much thereof as may be necessary for the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154: Twenty-six

million four hundred thousand dollars from the common school building construction account of the general fund and five million seven hundred and fifty-five thousand four hundred and forty-six dollars from the common school construction fund.

In accordance with RCW 28A.525.152, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 the entire amount of such appropriation as hereinabove in this section provided which is not already allocated for that purpose: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section. [1990 c 33 § 453; 1969 c 13 § 8. Formerly RCW 28A.47.799, 28.47.799.]

**Severability—1969 c 13:** See note following RCW 28A.525.140.

**28A.525.156 Bonds authorized under RCW 28A.525.120 through 28A.525.154 may be refunded—**Security. Any or all of the heretofore issued and outstanding bonds authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 may be refunded by the issuance of general obligation bonds of the state of Washington pursuant to the provisions of chapter 39.53 RCW as heretofore or hereafter amended. Any such refunding general obligation bonds shall be additionally secured as to the payment thereof by a pledge of interest on the permanent common school fund. [1990 c 33 § 454; 1974 ex.s. c 108 § 4. Formerly RCW 28A.47.7991.]

**28A.525.158 Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154.** Authority to issue the balance of general obligation bonds authorized by chapter 13, Laws of 1969 and unissued in the amount of three million nine hundred thousand dollars is hereby rescinded. [1979 ex.s. c 241 § 13. Formerly RCW 28A.47.7992.]

**Effective date—1979 ex.s. c 241:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [June 15, 1979]." [1979 ex.s. c 241 § 15.]

**Severability—1979 ex.s. c 241:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 241 § 14.]

**28A.525.160 1969 appropriation for construction, modernization of school plant facilities.** For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there is hereby appropriated from the common school construction fund the sum of thirty-seven million, four thousand, four hundred twenty-seven dollars. [1969 ex.s. c 244 § 1. Formerly RCW 28A.47.800, 28.47.800.]

**Severability—1969 ex.s. c 244:** "If any section, paragraph, sentence, clause, phrase or word of this act should be held to be invalid or unconstitutional, such act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this act. It is hereby declared that had any section,

paragraph, sentence, clause, phrase or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 ex.s. c 244 § 16.]

**28A.525.162 Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules.** (1) Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool handicapped students included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil

shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool handicapped students" means developmentally disabled children of preschool age who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district. [1990 c 33 § 455; 1989 c 321 § 1; 1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28A.47.801, 28.47.801.]

**Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154:** See notes following chapter 82-.45 RCW digest.

**Severability—1974 ex.s. c 56:** "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 56 § 9.]

**Severability—Effective date—1970 ex.s. c 42:** See notes following RCW 39.36.015.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.164 Allotment of appropriations for school plant facilities—Duties of board.** In allotting the state funds provided by RCW 28A.525.160 through 28A.525.182, the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW 28A.525.160 through 28A.525.182 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1990 c 33 § 456; 1989 c 321 § 2; 1974 ex.s. c 56 § 2; 1969 ex.s. c 244 § 3. Formerly RCW 28A.47.802, 28.47.802.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.166 Allotment of appropriations for school plant facilities—Basis of state aid for school plant.**

Allocations to school districts of state funds provided by RCW 28A.525.160 through 28A.525.182 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\begin{array}{r} \text{Computed} \\ \text{State} \\ \text{Ratio} \end{array} = \frac{\begin{array}{r} \text{District adjusted} \\ \text{valuation per} \\ \text{pupil} \end{array} + \begin{array}{r} \text{Total state ad-} \\ \text{justed valuation} \\ \text{per pupil} \end{array}}{\begin{array}{r} \text{District adjusted} \\ \text{valuation per} \\ \text{pupil} \end{array} + \begin{array}{r} \text{Total state ad-} \\ \text{justed valuation} \\ \text{per pupil} \end{array}} = \text{\%Assist-} \\ \text{\%Assist-} \\ \text{ance} \end{array}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.160 through 28A.525.182, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the

condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency. [1990 c 33 § 457; 1989 c 321 § 3; 1975 1st ex.s. c 98 § 1; 1974 ex.s. c 56 § 3; 1969 ex.s. c 244 § 4. Formerly RCW 28A.47.803, 28.47.803.]

**Effective date**—1975 1st ex.s. c 98: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 98 § 3.]

**Severability**—1974 ex.s. c 56: See note following RCW 28A.525.162.

**Severability**—1969 ex.s. c 244: See note following RCW 28A.525.160.

**28A.525.168 Allotment of appropriations for school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility.** Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: PROVIDED, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment

is made shall be used for the purposes aforesaid: **PROVIDED, FURTHER,** That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit. [1990 c 33 § 458; 1969 ex.s. c 244 § 5. Formerly RCW 28A.47.804, 28.47.804.]

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.170 Allotment of appropriations for school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district.** If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.525.160 through 28A.525.182 for school building construction is found by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.525.166, an additional allotment may be made to such district: **PROVIDED,** That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1990 c 33 § 459; 1974 ex.s. c 56 § 4; 1969 ex.s. c 244 § 6. Formerly RCW 28A.47.805, 28.47.805.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.172 Allotment of appropriations for school plant facilities—Application by district for state assistance—Studies and surveys by state board.** All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent

matters. [1969 ex.s. c 244 § 7. Formerly RCW 28A.47.806, 28.47.806.]

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.162.

**28A.525.174 Allotment of appropriations for school plant facilities—Manual, other materials to guide and provide information to district.** It shall be the duty of the state board of education, in consultation with the Washington state department of social and health services, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state–local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.525.160 through 28A.525.182; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well–being and development of school children will be served; (d) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.525.160 through 28A.525.182. [1990 c 33 § 460; 1979 c 141 § 39; 1974 ex.s. c 56 § 5; 1969 ex.s. c 244 § 8. Formerly RCW 28A.47.807, 28.47.807.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.176 Allotment of appropriations for school plant facilities—State board to provide district with consultatory, advisory service.** The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.525.160 through 28A.525.182 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities. [1990 c 33 § 461; 1974 ex.s. c 56 § 6; 1969 ex.s. c 244 § 9. Formerly RCW 28A.47.808, 28.47.808.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.178 Allotment of appropriations for school plant facilities—Modifiable basic or standard plans for**

**school buildings.** Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.525.160 through 28A.525.182 are allotted. [1990 c 33 § 462; 1974 ex.s. c 56 § 7; 1969 ex.s. c 244 § 10. Formerly RCW 28A.47.809, 28.47.809.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.180 Allotment of appropriations for school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas.** The total amount of funds appropriated under the provisions of RCW 28A.525.160 through 28A.525.182 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW 28A.525.160 through 28A.525.182 and available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW 28A.525.160 through 28A.525.182 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas. [1990 c 33 § 463; 1974 ex.s. c 56 § 8; 1969 ex.s. c 244 § 11. Formerly RCW 28A.47.810, 28.47.810.]

**Severability—1974 ex.s. c 56:** See note following RCW 28A.525.162.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.182 Allotment of appropriations for school plant facilities—Permissible allocations.** In accordance with RCW 28A.525.162, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.160 through 28A.525.180 the sum of forty-three million, two hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in RCW 28A.525.160. [1990 c 33 § 464; 1969 ex.s. c 244 § 12. Formerly RCW 28A.47.811, 28.47.811.]

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

**28A.525.190 Board limited when prioritizes construction.** The state board of education shall prioritize the construction of common school facilities only from funds appropriated and available in the common school

construction fund. [1975 1st ex.s. c 98 § 2. Formerly RCW 28A.47.820.]

**Effective date—1975 1st ex.s. c 98:** See note following RCW 28A.525.166.

**28A.525.200 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.** Notwithstanding any other provision of RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178. [1990 c 33 § 465; 1985 c 136 § 2; 1977 ex.s. c 227 § 1. Formerly RCW 28A.47.830.]

**28A.525.210 1984 bond issue for construction, modernization of school plant facilities—Intent.** It is the intent of the legislature to authorize general obligation bonds of the state of Washington for common school plant facilities which provides for the reimbursement of the state treasury for principal and interest payments and which therefore is not subject to the limitations on indebtedness under RCW 39.42.060. [1984 c 266 § 1. Formerly RCW 28A.47.840.]

**Severability—1984 c 266:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 266 § 8.]

**28A.525.212 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale.** For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, and to provide for the state administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million one hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section may be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their

payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate. [1985 ex.s. c 3 § 1; 1984 c 266 § 2. Formerly RCW 28A.47.841.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.214 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use.** The proceeds from the sale of the bonds authorized in RCW 28A.525.212 shall be deposited in the common school construction fund and shall be used exclusively for the purposes specified in RCW 28A.525.212 and section 887, chapter 57, Laws of 1983 1st ex. sess. and for the payment of expenses incurred in the issuance and sale of the bonds. [1990 c 33 § 466; 1984 c 266 § 3. Formerly RCW 28A.47.842.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.216 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education.** The proceeds from the sale of the bonds deposited under RCW 28A.525.214 in the common school construction fund shall be administered by the state board of education. [1990 c 33 § 467; 1984 c 266 § 4. Formerly RCW 28A.47.843.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.218 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds.** The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be transferred to the general fund of the state treasury from that portion of the common school construction fund derived from the interest on the permanent common school fund. The transfers from the common school construction fund shall be subject to all pledges, liens, and encumbrances heretofore granted or created on the portion of the fund derived from interest on the permanent common school fund. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing

obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

Bonds issued under RCW 28A.525.212 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1990 c 33 § 468; 1985 ex.s. c 3 § 2; 1984 c 266 § 5. Formerly RCW 28A.47.844.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.220 1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment.** The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212 and 28A.525.218 shall not be deemed to provide an exclusive method for the payment. [1990 c 33 § 469; 1984 c 266 § 6. Formerly RCW 28A.47.845.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.222 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds.** The bonds authorized in RCW 28A.525.212 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1990 c 33 § 470; 1984 c 266 § 7. Formerly RCW 28A.47.846.]

**Severability**—1984 c 266: See note following RCW 28A.525.210.

**28A.525.230 Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions.** For the purpose of furnishing funds for state assistance to school districts in providing for the construction of common school plant facilities, the state finance committee is hereby authorized to issue general obligation bonds of the state of Washington in the sum of twenty-two million seven hundred thousand dollars or so much thereof as may be required to provide state assistance to local school districts for the construction of common school plant facilities and to compensate the common school construction fund for the sale of timber from common school, indemnity, and escheat trust lands sold to the parks and recreation commission prior to March 13, 1980, pursuant to RCW 43.51.270 and 43.51.280. The amount of bonds issued under RCW 28A.525.230 through 28A.525.300 shall not exceed the fair market value of the timber. No bonds authorized by RCW 28A.525.230 through 28A.525.300 shall be offered for sale without prior legislative appropriation and these bonds shall be paid and discharged in not more than

thirty years of the date of issuance. [1990 c 33 § 471; 1985 ex.s. c 4 § 12; 1980 c 141 § 1. Formerly RCW 28A.47B.010.]

**Severability**—1985 ex.s. c 4: See RCW 43.99G.900.

**28A.525.240 Bond anticipation notes—Authorized—Payment.** When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 28A.525.230 it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1990 c 33 § 472; 1980 c 141 § 2. Formerly RCW 28A.47B.020.]

**28A.525.250 Form, terms, conditions, sale and covenants of bonds and notes.** The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and the bond anticipation notes authorized by this chapter, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1980 c 141 § 3. Formerly RCW 28A.47B.030.]

**28A.525.260 Disposition of proceeds from sale of bonds and notes—Use.** Except for that portion of the proceeds required to pay bond anticipation notes, the proceeds from the sale of the bonds and bond anticipation notes authorized by RCW 28A.525.230 through 28A.525.300, and any interest earned on the proceeds, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the common school construction fund and shall be used exclusively for the purposes of carrying out RCW 28A.525.230 through 28A.525.300, and for payment of the expense incurred in the printing, issuance and sale of the bonds. [1990 c 33 § 473; 1980 c 141 § 4. Formerly RCW 28A.47B.040.]

**28A.525.270 State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure.** The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 28A.525.230 through 28A.525.300.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds and the dates on which the payments are due. The state treasurer, not less than

thirty days prior to the date on which any interest or principal and interest payment is due, shall withdraw from any general state revenues or any other funds constitutionally available and received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1990 c 33 § 474; 1980 c 141 § 5. Formerly RCW 28A.47B.050.]

**28A.525.280 Bonds as legal investment for public funds.** The bonds authorized by RCW 28A.525.230 through 28A.525.300 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1990 c 33 § 475; 1980 c 141 § 6. Formerly RCW 28A.47B.060.]

**28A.525.290 Chapter provisions as limited by other statutes, covenants and proceedings.** No provisions of RCW 28A.525.230 through 28A.525.300 shall be deemed to repeal, override, or limit any provision of RCW 28A.525.120 through 28A.525.182, nor any provision or covenant of the proceedings of the state finance committee acting for and on behalf of the state of Washington heretofore or hereafter taken in the issuance of its revenue or general obligation bonds secured by a pledge of the interest earnings of the permanent common school fund under these statutes. [1990 c 33 § 476; 1980 c 141 § 7. Formerly RCW 28A.47B.070.]

**28A.525.300 Proceeds from sale of bonds as compensation for sale of timber from trust lands.** The proceeds received from the sale of the bonds issued under RCW 28A.525.230 through 28A.525.300 which are deposited in the common school construction fund and available for common school construction purposes shall serve as total compensation to the common school construction fund for the proceeds from the sale of timber from trust lands sold prior to March 13, 1980, to the state parks and recreation commission pursuant to RCW 43.51.270 and 43.51.280 which are required to be deposited in the common school construction fund. The superintendent of public instruction and the state board of education shall expend by June 30, 1981, the proceeds received from the bonds issued under RCW 28A.525.230 through 28A.525.300. [1990 c 33 § 477; 1980 c 141 § 8. Formerly RCW 28A.47B.080.]

## Chapter 28A.530

### DISTRICT BONDS FOR LAND, BUILDINGS, AND EQUIPMENT

#### Sections

- 28A.530.010 Directors may borrow money, issue bonds.
- 28A.530.020 Bond issuance—Election.
- 28A.530.030 Disposition of bond proceeds—Capital projects fund.
- 28A.530.040 Refunding former issues without vote of the people.
- 28A.530.050 Holder to notify treasurer—Redemption.
- 28A.530.060 Expense of county treasurer.
- 28A.530.070 Exchange of warrants for bonds.
- 28A.530.080 Additional authority to contract indebtedness.

**28A.530.010 Directors may borrow money, issue bonds.** The board of directors of any school district may borrow money and issue negotiable bonds therefor for the purpose of:

(1) Funding outstanding indebtedness or bonds theretofore issued; or

(2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or

(3) For erecting all buildings authorized by law, including but not limited to those mentioned in subsection (2) of this section immediately above or necessary or proper to carry out the functions of a school district, and providing the necessary furniture, apparatus, or equipment therefor; or

(4) For improving the energy efficiency of school district buildings and/or installing systems and components to utilize renewable and/or inexhaustible energy resources; or

(5) For major and minor structural changes and structural additions to buildings, structures, facilities and sites necessary or proper to carrying out the functions of the school district; or

(6) For any or all of these and other capital purposes.

Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.

Except for bonds issued under RCW 28A.530.080, bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1991 c 114 § 3; 1984 c 186 § 10; 1983 c 167 § 21; 1980 c 170 § 1; 1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28A.51.010, 28-51.010, 28.51.050, part.]

**Purpose**—1984 c 186: See note following RCW 39.46.110.

**Liberal construction**—**Severability**—1983 c 167: See RCW 39-46.010 and note following.

**Severability**—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

**Validation**—1969 c 142: See RCW 39.36.900.

**School funds enumerated**—**Deposits**—**Uses**—**Energy audits**: RCW 28A.320.330.

**28A.530.020 Bond issuance—Election.** The question whether the bonds shall be issued, as provided in RCW 28A.530.010, shall be determined at an election to be held pursuant to RCW 39.36.050. If a majority of the votes cast at such election favor the issuance of such bonds, the board of directors must issue such bonds: PROVIDED, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district that only needs a simple majority voter approval, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then

three-fifths of the votes cast at such election must be in favor of the issuance of such bonds, before the board of directors is authorized to issue said bonds. [1990 c 33 § 478; 1984 c 186 § 11; 1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28A.51.020, 28.51.020, 28.51.050, part.]

**Purpose**—1984 c 186: See note following RCW 39.46.110.

**Severability**—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

**28A.530.030 Disposition of bond proceeds—Capital projects fund.** When the bonds have been sold, the county treasurer shall place the money derived from such sale to the credit of the capital projects fund of the district, and such fund is hereby created. [1984 c 186 § 12; 1983 c 167 § 24; 1979 ex.s. c 257 § 1; 1969 ex.s. c 223 § 28A.51.070. Prior: 1911 c 88 § 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28A-.51.070, 28.51.070, 28.51.080, 28.51.090, 28.51.100 and 28.51.110.]

**Purpose**—1984 c 186: See note following RCW 39.46.110.

**Liberal construction**—**Severability**—1983 c 167: See RCW 39-46.010 and note following.

**Severability**—1979 ex.s. c 257: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 257 § 3.]

**28A.530.040 Refunding former issues without vote of the people.** Whenever any bonds lawfully issued by any school district under the provisions of this chapter shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power without any vote of the school district to fund the same by issuing bonds conformable to the requirements of this chapter and use the proceeds exclusively for the purpose of retiring and canceling such outstanding bonds as aforesaid, or the said directors in their discretion may exchange such refunding bonds par for par for such outstanding bonds. [1984 c 186 § 13; 1983 c 167 § 25; 1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28A.51.180, 28.51.180.]

**Purpose**—1984 c 186: See note following RCW 39.46.110.

**Liberal construction**—**Severability**—1983 c 167: See RCW 39-46.010 and note following.

**Validation**—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

**28A.530.050 Holder to notify treasurer—Redemption.** Every holder of any of the bonds so issued as a bearer bond as provided in this chapter, within ten days after the owner becomes the owner or holder thereof, shall notify the county treasurer of the county in which such bonds are issued of his or her ownership, together with his or her full name and post office address, and the county treasurer of said county shall deposit in the post office, properly stamped and addressed to each

owner of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds. [1990 c 33 § 479; 1983 c 167 § 26; 1969 ex.s. c 223 § 28A.51.190. Prior: 1909 c 97 p 330 § 13; RRS § 4953; prior: 1897 c 118 § 125; 1890 p 49 § 9. Formerly RCW 28A.51.190, 28.51.190.]

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**28A.530.060 Expense of county treasurer.** At any time after the issuance of such bonds as in this chapter provided, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his or her claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law. [1990 c 33 § 480; 1969 ex.s. c 223 § 28A.51.200. Prior: 1909 c 97 p 330 § 14; RRS § 4954; prior: 1897 c 118 § 126; 1890 p 50 § 10. Formerly RCW 28A.51.200, 28.51.200.]

**28A.530.070 Exchange of warrants for bonds.** If bonds issued under this chapter are not sold as in this chapter provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the date of the election may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1983 c 167 § 27; 1969 ex.s. c 223 § 28A.51.220. Prior: 1909 c 97 p 327 § 5; RRS § 4945. Formerly RCW 28A.51.220, 28.51.220.]

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**28A.530.080 Additional authority to contract indebtedness.** In addition to the authority granted under RCW 28A.530.010, a school district may contract indebtedness for the purpose of purchasing any real or personal property, or property rights, in connection with the exercise of any powers or duties which it is now or hereafter authorized to exercise, and issue bonds, notes, or other evidences of indebtedness therefor without a vote of the qualified electors of the district, subject to the limitations on indebtedness set forth in RCW 39.36.020(3). Such bonds, notes, or other evidences of indebtedness shall be issued and sold in accordance with chapter 39.46 RCW, and the proceeds thereof shall be deposited in

the capital projects fund, the transportation vehicle fund, or the general fund, as applicable. [1991 c 114 § 1.]

### Chapter 28A.535

#### VALIDATING INDEBTEDNESS

##### Sections

- 28A.535.010 Authority to validate indebtedness.
- 28A.535.020 Resolution providing for election—Vote required to validate.
- 28A.535.030 Notice of election.
- 28A.535.040 Manner and result of election.
- 28A.535.050 Authority to borrow, issue bonds.
- 28A.535.060 Exchange of warrants for bonds.
- 28A.535.070 Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues.
- 28A.535.080 Validating indebtedness proceedings after merger.

**28A.535.010 Authority to validate indebtedness.** Any school district may validate and ratify the indebtedness of such school district, incurred for strictly school purposes, when the same together with all then outstanding legal indebtedness does not exceed that amount permitted for school districts in RCW 39.36.020 (1) and (3). The value of taxable property in such school district shall be ascertained as provided in Article eight, section six, Amendment 27, of the Constitution of the state of Washington. [1969 ex.s. c 223 § 28A.52.010. Prior: 1909 c 97 p 331 § 1; RRS § 4956. Prior: 1897 c 118 § 128; 1895 c 21 § 1. Formerly RCW 28A.52.010, 28.52.010.]

**Reviser's note:** The above reference to RCW 39.36.020 (1) and (3) was apparently based upon the 1967 version of that section [1967 c 107 § 4]; the contents and organization of that section have been altered by subsequent amendments.

**28A.535.020 Resolution providing for election—Vote required to validate.** Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.535.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district. [1990 c 33 § 481; 1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28A.52.020, 28.52.020.]

**28A.535.030 Notice of election.** At the time of the adoption of the resolution provided for in RCW 28A.535.020, the board of directors shall direct the

school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school district at least twenty days before such election. In addition to his or her other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW 29.27.080. [1990 c 33 § 482; 1969 ex.s. c 223 § 28A.52.030. Prior: 1909 c 97 p 332 § 3; RRS § 4958; prior: 1897 c 118 § 131; 1895 c 21 § 4. Formerly RCW 28A.52.030, 28.52.030.]

**28A.535.040 Manner and result of election.** Elections hereunder shall be by ballot, and conducted in the manner provided for conducting annual school elections. The ballot must contain the words, "Validating and ratifying indebtedness, yes," or the words, "Validating and ratifying indebtedness, no." Ballots containing the words, "Validating and ratifying indebtedness, yes," shall be counted in favor of validating and ratifying such indebtedness, and ballots containing the words, "Validating and ratifying indebtedness, no," shall be counted against validating and ratifying such indebtedness. At their next meeting following ascertainment of the result of the election from the county auditor, the board of directors of any such district holding such an election shall cause to be entered a minute thereof on the records of such district. The qualifications of voters at such election shall be the same as prescribed for the election of school officials. [1969 ex.s. c 223 § 28A.52.040. Prior: 1909 c 97 p 332 § 4; RRS § 4959; prior: 1897 c 118 § 130; 1895 c 21 § 3. Formerly RCW 28A.52.040, 28.52.040.]

*Conduct of elections, canvass: RCW 29.13.040.*

**28A.535.050 Authority to borrow, issue bonds.** If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue and sell negotiable bonds therefor in accordance with chapter 39.46 RCW. [1984 c 186 § 14; 1983 c 167 § 28; 1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28A.52.050, 28.52.050.]

**Purpose**—1984 c 186: See note following RCW 39.46.110.

**Liberal construction**—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

**28A.535.060 Exchange of warrants for bonds.** If bonds issued under this chapter are not sold as herein provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution mentioned in RCW 28A.535.020, may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less

than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1990 c 33 § 483; 1983 c 167 § 30; 1969 ex.s. c 223 § 28A.52.060. Prior: 1909 c 97 p 334 § 7; RRS § 4962; prior: 1897 c 118 § 134; 1895 c 21 § 7. Formerly RCW 28A.52.060, 28.52.060.]

**Liberal construction**—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

**28A.535.070 Notice to county treasurer of authority to issue bonds**—**Annual levy for payment of interest and principal on bonds**—**Penalty against officer for expenditures in excess of revenues.** When authorized to issue bonds, as provided in this chapter the board of directors shall immediately cause to be sent to the appropriate county treasurer, notice thereof. The county officials charged by law with the duty of levying taxes for the payment of said bonds and interest shall do so as provided in RCW 39.46.110.

The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual expenditure in excess of the annual revenue of such district, in addition to any other penalties, whether civil or criminal, as provided by law, shall be deemed to be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars. [1985 c 7 § 90; 1969 ex.s. c 223 § 28A.52.070. Prior: 1909 c 97 p 335 § 8; RRS § 4963; prior: 1897 c 118 § 135; 1895 c 21 § 8. Formerly RCW 28A.52.070, 28.52.070.]

**28A.535.080 Validating indebtedness proceedings after merger.** In case any school district has heretofore incurred, or shall hereafter incur, indebtedness for strictly school purposes and has heretofore, or shall hereafter, become merged with another district as provided in RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the directors of the last named district may, after such merger, cause to be submitted to the voters within the limits of the district which incurred the obligations, the question of validating and ratifying such indebtedness. The vote shall be taken and the question determined in the manner prescribed in RCW 28A.535.020, 28A.535.030, and 28A.535.040. The directors of the district to which the district incurring the obligations was merged shall make provisions for payment of the indebtedness so validated by certifying the amount thereof in the manner prescribed in RCW 28A.535.070: PROVIDED, Such enlarged district may pay a part, or all, of such validating indebtedness from any funds available or by issuing bonds therefor when such enlarged district has taken over property of any district and in making such adjustment and apportionment as provided in RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the value of the property received shall be found to exceed the total indebtedness of the district annexed to the extent of such value over the total indebtedness of the district annexed. [1990 c 33 § 484; 1969 ex.s. c 223 § 28A.52.080. Prior: 1913 c 136

§ 1; RRS § 4964. Formerly RCW 28A.52.080, 28.52.080.]

### Chapter 28A.540

#### CAPITAL FUND AID BY NONHIGH SCHOOL DISTRICTS

##### Sections

- 28A.540.010 High school facilities defined.
- 28A.540.020 Plan for nonhigh district to provide capital funds in aid of high school district.
- 28A.540.030 Factors to be considered in preparation of plan.
- 28A.540.040 Public hearing—Notice.
- 28A.540.050 Review by state board—Approval—Revised plan.
- 28A.540.060 Bond, excess levy, elections—Use of proceeds.
- 28A.540.070 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal.
- 28A.540.080 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure.
- 28A.540.090 Nonhigh districts, time of levy and issuance of bonds.
- 28A.540.100 Validation of proceedings under 1955 act, when.
- 28A.540.110 Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise.

**28A.540.010 High school facilities defined.** High school facilities shall mean buildings for occupancy by grades nine through twelve and equipment and furniture for such buildings and shall include major alteration or major remodeling of buildings and the acquisition of new sites and of additions to existing sites, and improvement of sites but only when included as a part of a general plan for the construction, equipping and furnishing of a building or of an alteration or addition to a building. The term shall also (1) include that portion of any building, alteration, equipment, furniture, site and improvement of site allocated to grade nine when included in a plan for facilities to be occupied by grades seven through nine and (2) includes such facilities for grades seven and eight when included in a plan as aforesaid, if the regional committee on school district organization finds that students of these grades who reside in any nonhigh school districts involved are now attending school in the high school district involved under an arrangement which likely will be continued. [1985 c 385 § 31; 1969 ex.s. c 223 § 28A.56.005. Prior: 1959 c 262 § 2. Formerly RCW 28A.56.005, 28.56.005.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.540.020 Plan for nonhigh district to provide capital funds in aid of high school district.** Upon receipt of a written request from the board of directors of a high school district or a nonhigh school district that presents to the regional committee on school district organization satisfactory evidence of a need for high school facilities to be located therein and of ability to provide such facilities, the regional committee shall prepare a plan for participation by any nonhigh school district or districts in providing capital funds to pay the costs of such school facilities and equipment to be provided for the education of students residing in the school districts. Prior to submission of the aforesaid request the board of directors of the school district concerned therewith shall determine

the nature and extent of the high school facilities proposed to be provided, the approximate amount of local capital funds required to pay the cost thereof, and the site or sites upon which the proposed facilities are to be located, and shall submit a report thereon to the regional committee along with the aforesaid request. [1985 c 385 § 32; 1969 ex.s. c 223 § 28A.56.010. Prior: 1959 c 262 § 1; 1955 c 344 § 1; 1953 c 229 § 1. Formerly RCW 28A.56.010, 28.56.010.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.540.030 Factors to be considered in preparation of plan.** The regional committee on school district organization shall give consideration to:

(1) The report submitted by the board of directors as stated above;

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

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

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

(5) Any other factors found by the committee to have a bearing on the preparation of an equitable plan. [1985 c 385 § 33; 1985 c 7 § 91; 1969 ex.s. c 223 § 28A.56.020. Prior: 1959 c 262 § 3; 1955 c 344 § 2; 1953 c 229 § 2. Formerly RCW 28A.56.020, 28.56.020.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**28A.540.040 Public hearing—Notice.** The regional committee on school district organization shall also hold a public hearing or hearings on any proposed plan: PROVIDED, That three members of the committee or two members of the committee and the educational service district superintendent, or his or her designee, may be designated by the committee to hold such public hearing or hearings and to submit a report thereof to the regional committee. The regional committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof in at least three prominent and public places in the school districts involved and at the place of hearing. [1985 c 385 § 34; 1975 1st ex.s. c 275 § 74; 1971 c 48 § 21; 1969 ex.s. c 223 § 28A.56.030. Prior: 1959 c 262 § 4; 1955 c 344 § 3; 1953 c 229 § 3. Formerly RCW 28A.56.030, 28.56.030.]

**Severability—1985 c 385:** See note following RCW 28A.315.020.

**Severability—1971 c 48:** See note following RCW 28A.305.040.

**28A.540.050 Review by state board—Approval—Revised plan.** Subsequent to the holding of a

hearing or hearings as provided in RCW 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the state board of education together with such maps and other materials pertaining thereto as the state board may require. The state board shall review such plan, shall approve any plan which in its judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the state board, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the state board a revised plan which revision shall be subject to approval or disapproval by the state board and the procedural requirements and provisions of law applicable to an original plan submitted to said board. [1990 c 33 § 485; 1985 c 385 § 35; 1975 1st ex.s. c 275 § 75; 1971 c 48 § 22; 1969 ex.s. c 223 § 28A.56.040. Prior: 1959 c 262 § 5; 1955 c 344 § 4; 1953 c 229 § 4. Formerly RCW 28A.56.040, 28.56.040.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.540.060 Bond, excess levy, elections—Use of proceeds.** Within sixty days after receipt of the notice of approval from the educational service district superintendent, the board of directors of each school district included in the plan shall submit to the voters thereof a proposal or proposals for providing, through the issuance of bonds and/or the authorization of an excess tax levy, the amount of capital funds that the district is required to provide under the plan. The proceeds of any such bond issue and/or excess tax levy shall be credited to the capital projects fund of the school district in which the proposed high school facilities are to be located and shall be expended to pay the cost of high school facilities for the education of such students residing in the school districts as are included in the plan and not otherwise. [1985 c 7 § 92; 1975 1st ex.s. c 275 § 76; 1971 c 48 § 23; 1969 ex.s. c 223 § 28A.56.050. Prior: 1959 c 262 § 6; 1955 c 344 § 5; 1953 c 229 § 5. Formerly RCW 28A.56.050, 28.56.050.]

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.540.070 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal.** In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.225.210, following the close of the school year during which the second election is held: **PROVIDED**, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: **PROVIDED FURTHER**, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the state board of education. Upon approval by the state board of any such proposal, the educational service district superintendent shall make an order, establishing the annexation. [1990 c 33 § 486; 1985 c 385 § 36; 1975 1st ex.s. c 275 § 77; 1971 c 48 § 24; 1969 ex.s. c 223 § 28A.56.060. Prior: 1959 c 262 § 7; 1955 c 344 § 6; 1953 c 229 § 6. Formerly RCW 28A.56.060, 28.56.060.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**Severability**—1971 c 48: See note following RCW 28A.305.040.

**28A.540.080 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure.** In case of failure or refusal by a board of directors of a nonhigh school district to submit a proposal or proposals to a vote of the electors within the time limit specified in RCW 28A.540.060 and 28A.540.070, the regional committee on school district reorganization may initiate a proposal for annexation of such nonhigh school district as provided for in RCW 28A.540.070. [1990 c 33 § 487; 1985 c 385 § 37; 1969 ex.s. c 223 § 28A.56.070. Prior: 1959 c 262 § 8; 1955 c 344 § 7; 1953 c 229 § 7. Formerly RCW 28A.56.070, 28.56.070.]

**Severability**—1985 c 385: See note following RCW 28A.315.020.

**28A.540.090 Nonhigh districts, time of levy and issuance of bonds.** If the voters of a nonhigh school district approve an excess tax levy, the levy shall be made at the earliest time permitted by law. If the voters of a nonhigh school district approve the issuance of bonds, the board of directors of the nonhigh school district shall issue and sell said bonds within ninety days after receiving a copy of a resolution of the board of directors of the high

school district that the high school district is ready to proceed with the construction of the high school facilities provided for in the plan and requesting the sale of the bonds. [1969 ex.s. c 223 § 28A.56.075. Prior: 1959 c 262 § 9. Formerly RCW 28A.56.075, 28.56.075.]

**28A.540.100 Validation of proceedings under 1955 act, when.** All proceedings had and taken under chapter 344, Laws of 1955, shall be valid and binding although not in compliance with that act if said proceedings comply with the requirements of this chapter. [1969 ex.s. c 223 § 28A.56.170. Prior: 1959 c 262 § 11. Formerly RCW 28A.56.170, 28.56.170.]

**28A.540.110 Designation of high school district non-high district students shall attend—Effect when attendance otherwise.** (1) In cases where high school students resident in a nonhigh school district are to be educated in a high school district, the board of directors of the nonhigh school district shall, by mutual agreement with the serving district(s), designate the serving high school district or districts which its high school students shall attend. A nonhigh school district shall designate a district as a serving high school district when more than thirty-three and one-third percent of the high school students residing within the boundaries of the nonhigh school district are enrolled in the serving district.

(2) Students residing in a nonhigh school district shall be allowed to attend a high school other than in the designated serving district referred to in subsection (1) of this section, however the nonhigh school board of directors shall not be required to contribute to building programs in any such high school district. Contribution shall be made only to those districts which are designated as serving high school districts at the time the county auditor is requested by the high school district to place a measure on the ballot regarding a proposal or proposals for the issuance of bonds or the authorization of an excess tax levy to provide capital funds for building programs. The nonhigh school district shall be subject to the capital fund aid provisions contained in this chapter with respect to the designated high school serving district(s). [1989 c 321 § 4; 1981 c 239 § 1. Formerly RCW 28A.56.200.]

## Chapter 28A.545

### PAYMENT TO HIGH SCHOOL DISTRICTS

#### Sections

- 28A.545.010 School district divisions—High and nonhigh.
- 28A.545.020 Reimbursement not a tuition charge.
- 28A.545.030 Purposes.
- 28A.545.040 "Student residing in a nonhigh school district" defined.
- 28A.545.050 Amounts due from nonhigh districts.
- 28A.545.060 Enrollment data for computation of amounts due.
- 28A.545.070 Superintendent's annual determination of estimated amount due—Process.
- 28A.545.080 Estimated amount due paid in May and November installments.
- 28A.545.090 Assessing nonhigh school lesser amount—Notice of.
- 28A.545.100 Amount due reflects cost of education and transportation of students.
- 28A.545.110 Rules to effect purposes and implement provisions.

**28A.545.010 School district divisions—High and nonhigh.** For the purposes of this chapter all school districts in the state of Washington shall be and the same are hereby divided into two divisions to be known and designated respectively as high school districts and non-high school districts. [1983 c 3 § 31; 1969 ex.s. c 223 § 28A.44.045. Prior: 1917 c 21 § 1; RRS § 4710. Formerly RCW 28A.44.045, 28.44.045, 28.01.040, part.]

**28A.545.020 Reimbursement not a tuition charge.** The reimbursement of a high school district for cost of educating high school pupils for a nonhigh school district, as provided for in this chapter, shall not be deemed a tuition charge as affecting the apportionment of current state school funds. [1983 c 3 § 32; 1969 ex.s. c 223 § 28A.44.095. Prior: 1917 c 21 § 11; RRS § 4720. Formerly RCW 28A.44.095, 28.44.095.]

**28A.545.030 Purposes.** The purposes of RCW 28A.545.030 through 28A.545.110 and 84.52.0531 are to:

(1) Simplify the annual process of determining and paying the amounts due by nonhigh school districts to high school districts for educating students residing in a nonhigh school district;

(2) Provide for a payment schedule that coincides to the extent practicable with the ability of nonhigh school districts to pay and the need of high school districts for payment; and

(3) Establish that the maximum amount due per annual average full-time equivalent student by a nonhigh school district for each school year is no greater than the maintenance and operation excess tax levy rate per annual average full-time equivalent student levied upon the taxpayers of the high school district. [1990 c 33 § 488; 1981 c 264 § 1. Formerly RCW 28A.44.150.]

**Severability—1981 c 264:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 264 § 13.]

**28A.545.040 "Student residing in a nonhigh school district" defined.** The term "student residing in a non-high school district" and its equivalent as used in RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall mean any handicapped or nonhandicapped common school age person who resides within the boundaries of a nonhigh school district that does not conduct the particular kindergarten through grade twelve grade which the person has not yet successfully completed and is eligible to enroll in. [1990 c 33 § 489; 1981 c 264 § 2. Formerly RCW 28A.44.160.]

**Severability—1981 c 264:** See note following RCW 28A.545.030.

**28A.545.050 Amounts due from nonhigh districts.** Each year at such time as the superintendent of public instruction determines and certifies such maximum allowable amounts of school district levies under RCW 84.52.0531 he or she shall also:

(1) Determine the extent to which the estimated amounts due by nonhigh school districts for the previous

school year exceeded or fell short of the actual amounts due; and

(2) Determine the estimated amounts due by nonhigh school districts for the current school year and increase or decrease the same to the extent of overpayments or underpayments for the previous school year. [1985 c 341 § 11; 1981 c 264 § 3. Formerly RCW 28A.44.170.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.060 Enrollment data for computation of amounts due.** The student enrollment data necessary for the computation of the annual amounts due by nonhigh school districts pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall be established as follows:

(1) On or before July tenth preceding the school year, or such other date as may be established by the superintendent of public instruction, each high school district superintendent shall certify to the superintendent of public instruction:

(a) The estimated number of students residing in a nonhigh school district that will be enrolled in the high school district during the school year which estimate has been mutually agreed upon by the high school district superintendent and the superintendent of each nonhigh school district in which one or more of such students resides;

(b) The total estimated number of kindergarten through twelfth grade annual average full-time equivalent students, inclusive of nonresident students, that will be enrolled in the high school district during the school year;

(c) The actual number of annual average full-time equivalent students provided for in subsections (1)(a) and (b) of this section that were enrolled in the high school district during the regular school term just completed; and

(d) The name, address, and the school district and county of residence of each student residing in a nonhigh school district reported pursuant to this subsection (1), to the extent the same can reasonably be established.

(2) In the event the superintendents of a high school district and a nonhigh school district are unable to reach agreement respecting the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year, the estimate shall be established by the superintendent of public instruction. [1990 c 33 § 490; 1981 c 264 § 4. Formerly RCW 28A.44.180.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.070 Superintendent's annual determination of estimated amount due—Process.** (1) The superintendent of public instruction shall annually determine the estimated amount due by a nonhigh school district to a high school district for the school year as follows:

(a) The total of the high school district's maintenance and operation excess tax levy that has been authorized

and determined by the superintendent of public instruction to be allowable pursuant to RCW 84.52.0531, as now or hereafter amended, for collection during the next calendar year, shall first be divided by the total estimated number of annual average full-time equivalent students which the high school district superintendent or the superintendent of public instruction has certified pursuant to RCW 28A.545.060 will be enrolled in the high school district during the school year;

(b) The result of the calculation provided for in subsection (1)(a) of this section shall then be multiplied by the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year which has been established pursuant to RCW 28A.545.060; and

(c) The result of the calculation provided for in subsection (1)(b) of this section shall be adjusted upward to the extent the estimated amount due by a nonhigh school district for the prior school year was less than the actual amount due based upon actual annual average full-time equivalent student enrollments during the previous school year and the actual per annual average full-time equivalent student maintenance and operation excess tax levy rate for the current tax collection year, of the high school district, or adjusted downward to the extent the estimated amount due was greater than such actual amount due or greater than such lesser amount as a high school district may have elected to assess pursuant to RCW 28A.545.090.

(2) The amount arrived at pursuant to subsection (1)(c) of this subsection shall constitute the estimated amount due by a nonhigh school district to a high school district for the school year. [1990 c 33 § 491; 1981 c 264 § 5. Formerly RCW 28A.44.190.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.080 Estimated amount due paid in May and November installments.** The estimated amounts due by nonhigh school districts as determined pursuant to RCW 28A.545.070 shall be paid in two installments. During the month of May of the school year for which the amount is due, each nonhigh school district shall pay to each high school district fifty percent of the total estimated amount due to the high school district for the school year as determined by the superintendent of public instruction pursuant to RCW 28A.545.070. The remaining fifty percent shall be paid by each nonhigh school district to each high school district during the following November. [1990 c 33 § 492; 1981 c 264 § 6. Formerly RCW 28A.44.200.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.090 Assessing nonhigh school lesser amount—Notice of.** Notwithstanding any provision of RCW 28A.545.050 through 28A.545.080 to the contrary, any high school district board of directors may elect to assess a nonhigh school district an amount which is less than that otherwise established by the superintendent of public instruction pursuant to RCW

28A.545.070 to be due. In the event a high school district elects to do so, it shall notify both the superintendent of public instruction and the nonhigh school district of its election and the lesser amount no later than September first following the school year for which the amount is due. In the absence of such notification, each nonhigh school district shall pay the amount otherwise established by the superintendent of public instruction pursuant to RCW 28A.545.070. [1990 c 33 § 493; 1981 c 264 § 7. Formerly RCW 28A.44.210.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.100 Amount due reflects cost of education and transportation of students.** Unless otherwise agreed to by the board of directors of a nonhigh school district, the amounts which are established as due by a nonhigh school district pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531, as now or hereafter amended, shall constitute the entire amount which is due by a nonhigh school district for the school year for the education of any and all handicapped and nonhandicapped students residing in the nonhigh school district who attend a high school district pursuant to RCW 28A.225.210, and for the transportation of such students by a high school district. [1990 c 33 § 494; 1983 1st ex.s. c 61 § 7; 1981 c 264 § 8. Formerly RCW 28A.44.220.]

**Severability**—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

**Severability**—1981 c 264: See note following RCW 28A.545.030.

**28A.545.110 Rules to effect purposes and implement provisions.** The superintendent of public instruction is hereby empowered to adopt rules pursuant to chapter 34.05 RCW, as now or hereafter amended, deemed necessary or advisable by the superintendent to effect the purposes and implement the provisions of RCW 28A.545.030 through 28A.545.110 and 84.52.0531. [1990 c 33 § 495; 1981 c 264 § 9. Formerly RCW 28A.44.230.]

**Severability**—1981 c 264: See note following RCW 28A.545.030.

## Chapter 28A.550

### STATE SCHOOL EQUALIZATION FUND

#### Sections

28A.550.010 Repealed.

**28A.550.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 28A.600

### STUDENTS

#### Sections

28A.600.010 Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement.

- 28A.600.020 Government of schools, pupils, employees, rules and regulations for—Aim—Exclusion of student by teacher—Written procedures developed for administering discipline, scope.
- 28A.600.030 Grading policies—Option to consider attendance.
- 28A.600.040 Pupils to comply with rules and regulations.
- 28A.600.050 State honors awards program established—Purpose.
- 28A.600.060 State honors awards program—Areas included.
- 28A.600.070 State honors awards program—Rules.
- 28A.600.080 State honors awards program—Materials—Recognition by business and industry encouraged.
- 28A.600.100 State scholars' program—Purpose.
- 28A.600.110 State scholars' program—Established—Scope.
- 28A.600.120 State scholars' program—Administration—Cooperation with other agencies.
- 28A.600.130 State scholars' program—Planning committee—Composition—Duties.
- 28A.600.140 State scholars' program—Principal's association to submit names to board.
- 28A.600.150 State scholars' program—Selection and notification process—Certificates—Awards ceremony.
- 28A.600.200 Interschool athletic and other extracurricular activities for students, regulation of—Delegation, conditions.
- 28A.600.210 School locker searches—Findings.
- 28A.600.220 School locker searches—No expectation of privacy.
- 28A.600.230 School locker searches—Authorization—Limitations.
- 28A.600.240 School locker searches—Notice and reasonable suspicion requirements.
- 28A.600.300 High school students' options—Definition.
- 28A.600.310 High school students' options—Enrollment in community colleges and vocational-technical institutes—Transmittal of funds.
- 28A.600.320 High school students' options—Information on enrollment.
- 28A.600.330 High school students' options—Maximum terms of enrollment for high school credit.
- 28A.600.340 High school students' options—Enrolled students not displaced.
- 28A.600.350 High school students' options—Enrollment for secondary and postsecondary credit.
- 28A.600.360 High school students' options—Enrollment in postsecondary institution—Determination of high school credits—Application toward graduation requirements.
- 28A.600.370 High school students' options—Postsecondary credit.
- 28A.600.380 High school students' options—School district not responsible for transportation.
- 28A.600.390 High school students' options—Rules.
- 28A.600.395 High school students' options—Program implementation.
- 28A.600.400 High school students' options—Existing agreements not affected.

**28A.600.010 Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules and regulations prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules and regulations regarding pupil conduct, discipline, and rights, including but not limited to short-term and long-term suspensions. Such rules and regulations shall not be inconsistent with law or the rules and regulations of the superintendent of public instruction or the state board of education and shall include such substantive and procedural due process guarantees as prescribed by the state

board of education under RCW 28A.305.160. Commencing with the 1976-77 school year, when such rules and regulations are made available to each pupil, teacher and parent, they shall be accompanied by a detailed description of rights, responsibilities and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction and state board of education rules and regulations and rules and regulations of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160. [1990 c 33 § 496; 1979 ex.s. c 173 § 2; 1975-'76 2nd ex.s. c 97 § 2; 1975 1st ex.s. c 254 § 1; 1971 ex.s. c 268 § 1; 1969 ex.s. c 223 § 28A.58.101. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.101, 28.58.100(2), (6).]

**Severability**—1975 1st ex.s. c 254: See note following RCW 28A.410.120.

**28A.600.020 Government of schools, pupils, employees, rules and regulations for—Aim—Exclusion of student by teacher—Written procedures developed for administering discipline, scope.** (1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: **PROVIDED**, That except in emergency circumstances, the teacher shall have first attempted one or more alternative forms of corrective action: **PROVIDED FURTHER**, That in no event without the consent of the teacher shall an excluded student be returned during the balance of that class or activity period.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of

student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students: **PROVIDED**, That the procedures are consistent with the regulations of the state board of education and provide for early involvement of parents in attempts to improve the student's behavior: **PROVIDED FURTHER**, That pursuant to RCW 28A.400.110, the procedures shall assure that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom. [1990 c 33 § 497; 1980 c 171 § 1; 1972 ex.s. c 142 § 5. Formerly RCW 28A.58.1011.]

**28A.600.030 Grading policies—Option to consider attendance.** Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the state board of education under RCW 28A.305.160. [1990 c 33 § 498; 1984 c 278 § 7. Formerly RCW 28A.58.195.]

**Severability**—1984 c 278: See note following RCW 28A.185.010.

**28A.600.040 Pupils to comply with rules and regulations.** All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine. [1969 ex.s. c 223 § 28A.58.200. Prior: 1909 c 97 p 263 § 6; RRS § 4690; prior: 1897 c 118 § 69; 1890 p 372 § 48. Formerly RCW 28A.58.200, 28.58.200.]

**28A.600.050 State honors awards program established—Purpose.** The Washington state honors awards program is hereby established for the purpose of promoting academic achievement among high school students enrolled in public or approved private high schools by recognizing outstanding achievement of students in academic core subjects. This program shall be voluntary on the part of each school district and each student enrolled in high school. [1985 c 62 § 1. Formerly RCW 28A.03.440.]

*State scholars' program: RCW 28A.600.100 through 28A.600.150.*

**28A.600.060 State honors awards program—Areas included.** The recipients of the Washington state honors awards shall be selected based on student achievement in both verbal and quantitative areas, as measured by a test

or tests of general achievement selected by the superintendent of public instruction, and shall include student performance in the academic core areas of English, mathematics, science, social studies, and foreign language. The performance level in such academic core subjects shall be determined by grade point averages, numbers of credits earned, and courses enrolled in during the beginning of the senior year. [1991 c 116 § 22; 1985 c 62 § 2. Formerly RCW 28A.03.442.]

**28A.600.070 State honors awards program—Rules.** The superintendent of public instruction shall adopt rules for the establishment and administration of the Washington state honors awards program. The rules shall establish: (1) The test or tests of general achievement that are used to measure verbal and quantitative achievement, (2) academic subject performance levels, (3) timelines for participating school districts to notify students of the opportunity to participate, (4) procedures for the administration of the program, and (5) the procedures for providing the appropriate honors award designation. [1991 c 116 § 23; 1985 c 62 § 3. Formerly RCW 28A.03.444.]

**28A.600.080 State honors awards program—Materials—Recognition by business and industry encouraged.** The superintendent of public instruction shall provide participating high schools with the necessary materials for conferring honors. The superintendent of public instruction shall require participating high schools to encourage local representatives of business and industry to recognize students in their communities who receive an honors designation based on the Washington state honors awards program. [1985 c 62 § 4. Formerly RCW 28A.03.446.]

**28A.600.100 State scholars' program—Purpose.** Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of RCW 28A.600.100 through 28A.600.150 is to establish a consistent and uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state. [1990 c 33 § 499; 1985 c 341 § 14; 1981 c 54 § 1. Formerly RCW 28A.58.820.]

**Severability—1981 c 54:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 54 § 10.]

*State honors awards program: RCW 28A.600.050 through 28A.600.080.*

*Waiver of tuition and fees for recipients of the Washington scholars award: RCW 28B.15.543.*

**28A.600.110 State scholars' program—Established—Scope.** There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors graduating from high schools in each legislative district who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

(6) Permit a waiver of tuition and services and activities fees as provided for in RCW 28B.15.543 and grants under RCW 28B.80.245. [1988 c 210 § 4; 1987 c 465 § 1; 1981 c 54 § 2. Formerly RCW 28A.58.822.]

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.120 State scholars' program—Administration—Cooperation with other agencies.** The higher education coordinating board shall have the responsibility for administration of the Washington scholars program. The program will be developed cooperatively with the Washington association of secondary school principals, a voluntary professional association of secondary school principals. The cooperation of other state agencies and private organizations having interest and responsibility in public and private education shall be sought for planning assistance. [1985 c 370 § 32; 1981 c 54 § 3. Formerly RCW 28A.58.824.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.130 State scholars' program—Planning committee—Composition—Duties.** The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of

superintendent of public instruction, the council of presidents, the \*state board for community college education, and the Washington friends of higher education. [1990 c 33 § 500; 1985 c 370 § 33; 1981 c 54 § 4. Formerly RCW 28A.58.826.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.140 State scholars' program—Principal's association to submit names to board.** Each year on or before March 1st, the Washington association of secondary school principals shall submit to the higher education coordinating board the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under RCW 28A.600.130. [1990 c 33 § 501; 1985 c 370 § 34; 1981 c 54 § 5. Formerly RCW 28A.58.828.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.150 State scholars' program—Selection and notification process—Certificates—Awards ceremony.** Washington scholars annually shall be selected from among the students so identified. The higher education coordinating board shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor when final selections have been made.

The board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the Washington scholars recipients. An awards ceremony at an appropriate time and place shall be planned by the board in cooperation with the Washington association of secondary school principals, and with the approval of the governor. [1985 c 370 § 35; 1981 c 54 § 6. Formerly RCW 28A.58.830.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.200 Interscholastic athletic and other extracurricular activities for students, regulation of—Delegation, conditions.** Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington Interscholastic Activities Association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;

(2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

(3) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written and subject to the annual review and approval of the state board of education at such time as it shall establish;

(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board; and

(5) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.645.010 through 28A.645.030. [1990 c 33 § 502; 1975-'76 2nd ex.s. c 32 § 1. Formerly RCW 28A.58.125.]

*School buses, transport of general public to interscholastic activities—Limitations: RCW 28A.160.100.*

**28A.600.210 School locker searches—Findings.** The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole. [1989 c 271 § 244. Formerly RCW 28A.67.300.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.600.220 School locker searches—No expectation of privacy.** No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240. [1990 c 33 § 503; 1989 c 271 § 245. Formerly RCW 28A.67.310.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.600.230 School locker searches—Authorization—Limitations.** (1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the

principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070. [1989 c 271 § 246. Formerly RCW 28A.67.320.]

**Severability**—1989 c 271: See note following RCW 9.94A.310.

**28A.600.240 School locker searches—Notice and reasonable suspicion requirements.** (1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2). [1990 c 33 § 504; 1989 c 271 § 247. Formerly RCW 28A.67.330.]

**Severability**—1989 c 271: See note following RCW 9.94A.310.

**28A.600.300 High school students' options—Definition.** As used in RCW 28A.600.300 through 28A.600.390, community college means a public community college as defined in chapter 28B.50 RCW. [1990 1st ex.s. c 9 § 401.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.600.310 High school students' options—Enrollment in community colleges and vocational-technical institutes—Transmittal of funds.** (1) Eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grades may apply to a community college or vocational-technical institute to enroll in courses or programs offered by the community college or vocational-technical institute. If a community college or vocational-technical institute accepts a secondary school pupil for enrollment under this section, the community college or vocational-technical institute shall send written notice to the pupil, the pupil's school district, and the superintendent of public instruction

within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2) The pupil's school district shall transmit to the community college or vocational-technical institute a sum not exceeding the amount of state funds under RCW 28A.150.260 generated by a full time equivalent student and in proportion to the number of hours of instruction the pupil receives at the community college or vocational-technical institute and at the high school. The community college or vocational-technical institute shall not require the pupil to pay any other fees. The funds received by the community college or vocational-technical institute from the school district shall not be deemed tuition or operating fees and may be retained by the community college or vocational-technical institute. A student enrolled under this subsection shall not be counted for the purpose of determining any enrollment restrictions imposed by the state on the community colleges. [1990 1st ex.s. c 9 § 402.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.600.320 High school students' options—Information on enrollment.** A school district shall provide general information about the program to all pupils in grades ten and eleven and the parents and guardians of those pupils. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in community college or a vocational-technical institute courses for credit. Students are responsible for applying for admission to the community college or vocational-technical institute. [1990 1st ex.s. c 9 § 403.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.600.330 High school students' options—Maximum terms of enrollment for high school credit.** A pupil who enrolls in a community college or a vocational-technical institute in grade eleven may not enroll in postsecondary courses under RCW 28A.600.300 through 28A.600.390 for high school credit and community college or vocational-technical institute credit for more than the equivalent of the course work for two academic years. A pupil who first enrolls in a community college or vocational-technical institute in grade twelve may not enroll in postsecondary courses under this section for high school credit and community college or vocational-technical institute credit for more than the equivalent of the course work for one academic year. [1990 1st ex.s. c 9 § 404.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.600.340 High school students' options—Enrolled students not displaced.** Once a pupil has been enrolled in a postsecondary course, program, or vocational-technical institute under this section, the pupil shall not be displaced by another student. [1990 1st ex.s. c 9 § 405.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**28A.600.350 High school students' options—Enrollment for secondary and postsecondary credit.** A pupil may enroll in a course under RCW 28A.600.300 through 28A.600.390 for both high school credit and college level academic and vocational or vocational-technical institute credit. [1990 1st ex.s. c 9 § 406.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.360 High school students' options—Enrollment in postsecondary institution—Determination of high school credits—Application toward graduation requirements.** A school district shall grant academic credit to a pupil enrolled in a course for high school credit if the pupil successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the pupil enrolls in the course. The credits shall be applied toward graduation requirements and subject area requirements. Evidence of the successful completion of each course in a community college or vocational-technical institute shall be included in the pupil's secondary school records and transcript. The transcript shall also note that the course was taken at a community college or vocational-technical institute. [1990 1st ex.s. c 9 § 407.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.370 High school students' options—Postsecondary credit.** Any state institution of higher education may award postsecondary credit for college level academic and vocational or vocational-technical institute courses successfully completed by a student while in high school and taken at a community college or vocational-technical institute. The state institution of higher education shall not charge a fee for the award of the credits. [1990 1st ex.s. c 9 § 408.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.380 High school students' options—School district not responsible for transportation.** Transportation to and from the community college or vocational-technical institute is not the responsibility of the school district. [1990 1st ex.s. c 9 § 409.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.390 High school students' options—Rules.** The superintendent of public instruction, the \*state board for community college education, and the higher education coordinating board shall jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, if rules are necessary. The rules shall be written to encourage the maximum use of the program and shall not narrow or limit the enrollment options under RCW 28A.600.300 through 28A.600.380. [1990 1st ex.s. c 9 § 410.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.395 High school students' options—Program implementation.** (1) RCW 28A.600.300 through 28A.600.390 may be implemented in up to five community college districts during the 1990-91 and 1991-92 school years. Any school district within any of the selected community college districts may participate in the program. The five community college districts shall be selected from applicants by the \*state board for community college education. The board shall select community college districts from both eastern and western Washington. RCW 28A.600.300 through 28A.600.390 are applicable throughout the state beginning with the 1992-93 school year. Participation by community college districts under RCW 28A.600.300 through 28A.600.390 is in addition to agreements between school districts and community college districts in effect on April 11, 1990, and in the future.

(2) RCW 28A.600.300 through 28A.600.390 may be implemented in all vocational-technical institutes beginning with the 1990-91 school year and shall be implemented in all vocational-technical institutes in the 1991-92 school year. [1990 1st ex.s. c 9 § 411.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.600.400 High school students' options—Existing agreements not affected.** RCW 28A.600.300 through 28A.600.395 are in addition to and not intended to adversely affect agreements between school districts and community college districts or vocational-technical institutes in effect on April 11, 1990, and in the future. [1990 1st ex.s. c 9 § 412.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

## Chapter 28A.605 PARENT ACCESS

### Sections

28A.605.010 Removing child from school grounds during school hours—Procedure.

28A.605.020 Parents' access to classroom or school sponsored activities—Limitation.

**28A.605.010 Removing child from school grounds during school hours—Procedure.** The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child will be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal

custody thereof: PROVIDED, That such rules and regulations need not be applicable to any child in grades nine through twelve. [1975 1st ex.s. c 248 § 1. Formerly RCW 28A.58.050.]

**28A.605.020 Parents' access to classroom or school sponsored activities—Limitation.** Every school district board of directors shall, after following established procedure, adopt a policy assuring parents access to their child's classroom and/or school sponsored activities for purposes of observing class procedure, teaching material, and class conduct: PROVIDED, That such observation shall not disrupt the classroom procedure or learning activity. [1979 ex.s. c 250 § 8. Formerly RCW 28A.58.053.]

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

## Chapter 28A.610 PROJECT EVEN START

### Sections

- 28A.610.010 Intent—Short title.
- 28A.610.020 Definitions.
- 28A.610.030 Adult literacy program—Basic skills instruction—  
Credit toward work and training requirement—  
Rules.
- 28A.610.040 Preference for existing programs before developing new programs.
- 28A.610.050 Reports to legislature.
- 28A.610.060 Information about program—Duties of superintendent through state clearinghouse for education information.

**28A.610.010 Intent—Short title.** (1) Parents can be the most effective teachers for their children. Providing illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge will enhance their ability to assist and support their children in the learning process, and will enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contribute to enhanced academic performance.

(2) RCW 28A.610.020 through 28A.610.060 may be known and cited as project even start. [1990 c 33 § 505; 1987 c 518 § 104. Formerly RCW 28A.130.010.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.610.020 Definitions.** Unless the context clearly requires otherwise, the definition in this section shall apply throughout RCW 28A.610.030 through 28A.610.060.

"Parent" or "parents" means a parent who has less than an eighth grade ability in one or more of the basic skill areas of reading, language arts, or mathematics, as measured by a standardized test, and who has a child or children enrolled in: (1) The state early childhood education and assistance program; (2) a federal head start program; (3) a state or federally funded elementary school basic skills program serving students who have

scored below the national average on a standardized test in one or more of the basic skill areas of reading, language arts, or mathematics; or (4) a cooperative nursery school at a community college or vocational technical institute. [1990 c 33 § 506; 1987 c 518 § 105. Formerly RCW 28A.130.012.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.610.030 Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules.** (1) The superintendent of public instruction, in consultation with the department of community development, the department of social and health services, the \*state board for community college education, and community-based, nonprofit providers of adult literacy services, shall develop an adult literacy program to serve eligible parents as defined under RCW 28A.610.020. The program shall give priority to serving parents with children who have not yet enrolled in school or are in grades kindergarten through three.

(2) In addition to providing basic skills instruction to eligible parents, the program may include other program components which may include transportation, child care, and such other directly necessary activities as may be necessary to accomplish the purposes of RCW 28A.610.020 through 28A.610.060.

(3) Parents who elect to participate in training or work programs, as a condition of receiving public assistance, shall have the hours spent in parent participation programs, conducted as part of a federal head start program, or the state early childhood education and assistance program under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, or parent literacy programs under RCW 28A.610.020 through 28A.610.060, counted toward the fulfillment of their work and training obligation for the receipt of public assistance.

(4) State funds as may be appropriated for project even start shall be used solely to expand and complement, but not supplant, federal funds for adult literacy programs.

(5) The superintendent of public instruction shall adopt rules as necessary to carry out the purposes of RCW 28A.610.020 through 28A.610.060. [1990 c 33 § 507; 1987 c 518 § 106. Formerly RCW 28A.130.014.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.610.040 Preference for existing programs before developing new programs.** The superintendent of public instruction is authorized and directed, whenever possible, to fund or cooperatively work with existing adult literacy programs and parenting related programs offered through the common school and community college systems, vocational-technical institutes, or community-based, nonprofit organizations to provide services for eligible parents before developing and funding new adult

literacy programs to carry out the purposes of project even start. [1987 c 518 § 107. Formerly RCW 28A.130.016.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.610.050 Reports to legislature.** The superintendent of public instruction shall evaluate and submit to the legislature by January 15, 1988, a report on the effectiveness of project even start. The initial report shall include, if appropriate, recommendations relating to the expansion of project even start. The superintendent shall submit a report to the legislature on project even start every two years after the initial report. [1987 c 518 § 108. Formerly RCW 28A.130.018.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.610.060 Information about program—Duties of superintendent through state clearinghouse for education information.** The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective parent literacy programs under project even start. [1987 c 518 § 109. Formerly RCW 28A.130.020.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

### Chapter 28A.615

#### SCHOOL INVOLVEMENT PROGRAMS

##### Sections

28A.615.010 through 28A.615.040 Repealed.

28A.615.050 Information about programs—Duties of superintendent through state clearinghouse for education information.

28A.615.060 Six-plus-sixty volunteer program—Grants—Advisory committee.

**28A.615.010 through 28A.615.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.615.050 Information about programs—Duties of superintendent through state clearinghouse for education information.** The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective school involvement programs. [1987 c 518 § 305. Formerly RCW 28A.58.648.]

**Intent—Severability—1987 c 518:** See notes following RCW 28A.215.150.

**28A.615.060 Six-plus-sixty volunteer program—Grants—Advisory committee.** (1) Senior citizens have a wealth of experience and knowledge which can be of value to the children of our state. To encourage the exchange of knowledge and experience between senior citizens and our children, the six-plus-sixty volunteer

program is created. The purpose of the program is to encourage senior citizens to volunteer in our public schools.

(2) The superintendent of public instruction may grant funds to selected school districts for planning and implementation of a volunteer program utilizing senior citizens. The funds may be used to provide information on volunteer opportunities to the community, to schools, and to senior citizens and may also be used to provide training to the senior citizens who participate in the program. Funds may also be used to compensate volunteers for their transportation costs by paying mileage, providing transportation on school buses, and providing a school lunch.

(3) The superintendent shall appoint an advisory committee composed of certificated and noncertificated staff, administrators, senior citizens, and the state center for voluntary action under chapter 43.150 RCW. The committee shall propose criteria to the superintendent to evaluate grant proposals for the six-plus-sixty volunteer program. [1989 c 310 § 1. Formerly RCW 28A.03.550.]

### Chapter 28A.620

#### COMMUNITY EDUCATION PROGRAMS

##### Sections

28A.620.010 Purposes.

28A.620.020 Restrictions—Classes on parenting skills and child abuse prevention encouraged.

**28A.620.010 Purposes.** The purposes of this section and RCW 28A.620.020 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens including programs, if resources are available, to promote parenting skills and promote awareness of the problem of child abuse and methods to avoid child abuse;

(5) As used in this section, "parenting skills" shall include: The importance of consistency in parenting; the value of providing children with a balance of love and firm discipline; the instruction of children in honesty, morality, ethics, and respect for the law; and the necessity of preserving and nurturing the family unit; and

(6) Help develop a sense of community in which the citizens cooperate with the public schools and community agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program. [1990 c 33 § 510. Prior: 1985 c 344 § 1; 1985 c

341 § 12; 1979 ex.s. c 120 § 1. Formerly RCW 28A.58.246.]

**28A.620.020 Restrictions—Classes on parenting skills and child abuse prevention encouraged.** Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: **PROVIDED**, That school districts are encouraged to provide programs for prospective parents, prospective foster parents, and prospective adoptive parents on parenting skills and on the problems of child abuse and methods to avoid child abuse situations: **PROVIDED FURTHER**, That community education programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the \*state board for community college education and shall be programs receiving the approval of said superintendent. [1985 c 344 § 2; 1979 ex.s. c 120 § 2; 1973 c 138 § 1. Formerly RCW 28A.58.247.]

\*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

## Chapter 28A.623 MEAL PROGRAMS

### Sections

- 28A.623.010 Nonprofit program for elderly—Purpose.  
28A.623.020 Nonprofit program for elderly—Authorized—Restrictions.  
28A.623.030 Nonprofit program for certain children and students—Conditions and restrictions.

**28A.623.010 Nonprofit program for elderly—Purpose.** The legislature finds that many elderly persons suffer dietary deficiencies and malnutrition due to inadequate financial resources, immobility, lack of interest due to isolation and loneliness, and characteristics of the aging process, such as physiological, social, and psychological changes which result in a way of life too often leading to feelings of rejection, abandonment, and despair. There is a real need as a matter of public policy to provide the elderly citizens with adequate nutritionally sound meals, through which their isolation may be penetrated with the company and the social contacts of their own. It is the declared purpose of RCW 28A.235.120, 28A.623.010, and 28A.623.020 to raise the level of dignity of the aged population where their remaining years can be lived in a fulfillment equal to the benefits they

have bestowed, the richness they have added, and the great part they have played in the life of our society and nation. [1990 c 33 § 511; 1973 c 107 § 1. Formerly RCW 28A.58.720.]

**28A.623.020 Nonprofit program for elderly—Authorized—Restrictions.** The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program for feeding elderly persons residing within the area served by such school district using school facilities, and may authorize the extension of any school food services for the purpose of feeding elderly persons, subject to the following conditions and restrictions:

(1) The charge to such persons for each meal shall not exceed the actual cost of such meal to the school.

(2) The program will utilize methods of administration which will assure that the maximum number of eligible individuals may have an opportunity to participate in such a program, and will coordinate, whenever possible, with the local area agency on aging.

(3) Any nonprofit meal program established pursuant to RCW 28A.235.120, 28A.623.010, and 28A.623.020 may not be operated so as to interfere with the normal educational process within the schools.

(4) No school district funds may be used for the operation of such a meal program.

(5) For purposes of RCW 28A.235.120, 28A.623.010, and 28A.623.020, "elderly persons" shall mean persons who are at least sixty years of age. [1990 c 33 § 512; 1973 c 107 § 3. Formerly RCW 28A.58.722.]

**28A.623.030 Nonprofit program for certain children and students—Conditions and restrictions.** The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program using school facilities for feeding children who are participating in educational programs or activities conducted by private, nonprofit organizations and entities and students who are attending private elementary and secondary schools, and may authorize the extension of any school food services for the purpose of feeding such children and students, subject to the following conditions and restrictions:

(1) The charge to such persons, organizations, entities or schools for each meal shall be not less than the actual cost of such meal to the school, inclusive of a reasonable charge for overhead and the value of the use of the facilities.

(2) The meal program shall not be operated so as to interfere with the educational process within the school district.

(3) The meal program shall not be operated so as to impair or reduce the provision of food services to students of the school districts. [1979 c 58 § 2. Formerly RCW 28A.58.724.]

**Severability—1979 c 58:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 58 § 3.]

**Chapter 28A.625**  
**AWARDS**

## Sections

## EXCELLENCE IN EDUCATION

- 28A.625.010 Short title.  
 28A.625.020 Recipients—Awards.  
 28A.625.030 Washington State Christa McAuliffe award for teachers.  
 28A.625.040 Repealed.  
 28A.625.041 Certificates—Grants or stipends.  
 28A.625.050 Rules.  
 28A.625.060 Grant in lieu of waiver of tuition and fees—Principals and teachers or administrators may apply.  
 28A.625.065 Value of academic grant—Completion of courses.  
 28A.625.070 Repealed.  
 28A.625.071 Teachers, principals, administrators—Receipt of clock hours of continuing education.

## EMPLOYEE SUGGESTION PROGRAM

- 28A.625.100 Board of directors of a school district may establish.  
 28A.625.110 Awards.

## COMMENDABLE EMPLOYEE SERVICE AND RECOGNITION AWARD

- 28A.625.150 Award program.

## MATHEMATICS, ENGINEERING, AND SCIENCE ACHIEVEMENT

- 28A.625.200 Findings and intent.  
 28A.625.210 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals.  
 28A.625.220 Mathematics, engineering, and science achievement program—Coordinator—Staff.  
 28A.625.230 Coordinator to develop selection standards.  
 28A.625.240 Local program centers.

## SCHOOL IMPROVEMENT AND RESEARCH PROJECTS

- 28A.625.300 Grants—Advisory committee—Information clearinghouse.  
 28A.625.350 Short title.  
 28A.625.360 Excellence in teacher preparation award established.  
 28A.625.370 Award for teacher educator.  
 28A.625.380 Rules.  
 28A.625.390 Educational grant—Eligibility—Award.  
 28A.625.420 Repealed.  
 28A.625.900 Severability—1990 1st ex.s. c 10.

## EXCELLENCE IN EDUCATION

**28A.625.010 Short title.** RCW 28A.625.020 through \*28A.625.070 and 28B.15.547 may be known and cited as the Washington award for excellence in education program act. [1990 c 33 § 513; 1986 c 147 § 1. Formerly RCW 28A.03.520.]

**\*Reviser's note:** RCW 28A.625.070 and 28B.15.547 were repealed by 1991 c 255 § 11.

*Commendable employee service and recognition award program:* RCW 28A.625.150.

**28A.625.020 Recipients—Awards.** The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, administrators, classified staff, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The program shall recognize annually:

(1) Five teachers from each congressional district of the state. One individual must be an elementary level

teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher. Teachers shall include educational staff associates;

(2) Five principals or administrators from the state;  
 (3) One school district superintendent from the state;  
 (4) One school district board of directors from the state; and

(5) Three classified staff from each congressional district of the state. [1991 c 255 § 1. Prior: 1990 c 77 § 1; 1990 c 33 § 514; 1989 c 75 § 1; 1988 c 251 § 1; 1987 1st ex.s. c 2 § 209; 1986 c 147 § 2. Formerly RCW 28A.03.523.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**28A.625.030 Washington State Christa McAuliffe award for teachers.** The award for teachers under the Washington award for excellence in education program shall be named the "Washington State Christa McAuliffe Award, in honor and memory of Sharon Christa Corrigan McAuliffe." As the first teacher and private citizen selected nationally to voyage into space, Christa McAuliffe exemplified what is exciting and positive about the teaching profession. Her contributions within the scope of the nation's education system helped to show that education can and should be a vital and dynamic experience for all participants. Christa McAuliffe's chosen profession encompasses learning by discovery and her desire to make new discoveries was reflected by her participation in the nation's space program.

The selection of Christa McAuliffe as the first teacher in space was directly linked to Washington state in that then superintendent of public instruction Dr. Frank Brouillet both appointed and served as a member of the national panel which selected Christa McAuliffe.

The tragic loss of the life of Christa McAuliffe on the flight of the space shuttle Challenger on January 28, 1986, will be remembered through the legacy she gave to her family, friends, relatives, students, colleagues, the education profession, and the nation: A model example of striving toward excellence. [1991 c 255 § 2; 1986 c 147 § 3. Formerly RCW 28A.03.526.]

**28A.625.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.625.041 Certificates—Grants or stipends.** (1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall not exceed the current academic year full-time

resident graduate tuition for courses taken at one of the state's research universities and shall not exceed the current academic year full-time resident graduate tuition for courses taken at one of the state's regional universities or The Evergreen State College. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:

(a) A recognition stipend not to exceed one thousand dollars. The stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant. [1991 c 255 § 3.]

**28A.625.050 Rules.** The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.010 through \*28A.625.070. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent is encouraged to consult with teachers, educational staff associates, principals, administrators, classified employees, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW 28A.625.020 (1) and (2), such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or both. [1991 c 255 § 8; 1990 c 33 § 516; 1988 c 251 § 2; 1986 c 147 § 5. Formerly RCW 28A.03.532.]

\*Reviser's note: RCW 28A.625.070 was repealed by 1991 c 255 § 11.

**28A.625.060 Grant in lieu of waiver of tuition and fees—Principals and teachers or administrators may**

**apply.** Teachers, principals or administrators, and superintendents who have received an award for excellence in education and choose to apply for an educational grant under RCW 28A.625.041 shall be awarded the grant by the superintendent of public instruction as long as a written grant application is submitted to the superintendent within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used. [1991 c 255 § 9; 1990 c 33 § 517; 1988 c 251 § 3; 1986 c 147 § 7. Formerly RCW 28A.03.535.]

**28A.625.065 Value of academic grant—Completion of courses.** (1) The dollar value of the academic grant under RCW 28A.625.041(2)(a) shall be the amount as provided under RCW 28A.625.041(2)(a) at the time the grant is awarded by the higher education coordinating board.

(2) Courses paid for in full by the academic grant under RCW 28A.625.041(2)(a) shall be completed within four years after the academic grant is received. [1991 c 255 § 4.]

**28A.625.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.625.071 Teachers, principals, administrators—Receipt of clock hours of continuing education.** Teachers and principals or administrators who receive a Washington award for excellence in education and who select the academic grant under RCW 28A.625.041(2)(a) shall receive thirty clock hours toward the one hundred fifty clock hours of continuing education required every five years by the state board of education: PROVIDED, That the thirty clock hours shall be granted only if the courses are related to the recipient's responsibilities or assignments. [1991 c 255 § 5.]

## EMPLOYEE SUGGESTION PROGRAM

**28A.625.100 Board of directors of a school district may establish.** The board of directors of any school district may establish and maintain an employee suggestion program to encourage and reward meritorious suggestions by certificated and classified school employees. The program shall be designed to promote efficiency or economy in the performance of any function of the school district. Each board establishing an employee suggestion program shall establish procedures for the proper administration of the program. [1986 c 143 § 1. Formerly RCW 28A.02.320.]

**Effective date—1986 c 143:** "This act shall take effect on August 1, 1986." [1986 c 143 § 4.]

**28A.625.110 Awards.** The board of directors of the school district shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award. The

award shall not be a regular or supplemental compensation program for all employees and the suggestion must, in fact, result in actual savings greater than the award amount. Any moneys which may be awarded to an employee as part of an employee suggestion program shall not be considered salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.40 RCW. [1990 c 33 § 519; 1987 1st ex.s. c 2 § 207; 1986 c 143 § 2. Formerly RCW 28A.02.325.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Effective date—1986 c 143:** See note following RCW 28A.625.100.

### COMMENDABLE EMPLOYEE SERVICE AND RECOGNITION AWARD

**28A.625.150 Award program.** The board of directors of any school district may establish a commendable employee service and recognition award program for certificated and classified school employees. The program shall be designed to recognize exemplary service, special achievements, or outstanding contributions by an individual in the performance of his or her duties as an employee of the school district. The board of directors of the school district shall determine the extent and type of any nonmonetary award. The value of any nonmonetary award shall not be deemed salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.32 RCW. [1990 c 33 § 520; 1987 1st ex.s. c 2 § 210; 1985 c 399 § 2. Formerly RCW 28A.58.842.]

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Award for excellence in education program:** RCW 28A.625.020 through 28A.625.071.

### MATHEMATICS, ENGINEERING, AND SCIENCE ACHIEVEMENT

**28A.625.200 Findings and intent.** The legislature finds that high technology is important to the state's economy and the welfare of its citizens. The legislature finds that certain groups, as characterized by sex or ethnic background, are traditionally underrepresented in mathematics, engineering, and the science-related professions in this state. The legislature finds that women and minority students have been traditionally discouraged from entering the fields of science and mathematics including teaching in these fields. The legislature finds that attitudes and knowledges acquired during the kindergarten through eighth grade prepare students to succeed in high school science and mathematics programs and that special skills necessary for these fields need to be acquired during the ninth through twelfth grades. It is the intent of the legislature to promote a mathematics, engineering, and science achievement program to help increase the number of people in these fields and teaching in these fields from groups underrepresented in these fields. [1989 c 66 § 1; 1984 c 265 § 1. Formerly RCW 28A.03.430.]

**Implementation—Funding required—1984 c 265:** "Implementation of this act shall be subject to funds being appropriated or otherwise available for such purposes." [1984 c 265 § 6.]

**28A.625.210 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals.** A program to increase the number of people from groups underrepresented in the fields of mathematics, engineering, and the physical sciences in this state shall be established by the University of Washington. The program shall be administered through the University of Washington and designed to:

(1) Encourage students in the targeted groups in the common schools, with a particular emphasis on those students in middle and junior high schools and the sixth through twelfth grades, to acquire the academic skills needed to study mathematics, engineering, or related sciences at an institution of higher education;

(2) Promote the awareness of career opportunities including the career opportunities of teaching in the fields of science and mathematics and the skills necessary to achieve those opportunities among students sufficiently early in their educational careers to permit and encourage the students to acquire the skills;

(3) Promote cooperation among institutions of higher education, the superintendent of public instruction and local school districts in working towards the goals of the program; and

(4) Solicit contributions of time and resources from public and private institutions of higher education, high schools, middle and junior high schools, and private business and industry. [1990 c 286 § 1; 1989 c 66 § 2; 1984 c 265 § 2. Formerly RCW 28A.03.432.]

**Implementation—Funding required—1984 c 265:** See note following RCW 28A.625.200.

**28A.625.220 Mathematics, engineering, and science achievement program—Coordinator—Staff.** A coordinator shall be hired to administer the program. Additional staff as necessary may be hired. [1984 c 265 § 3. Formerly RCW 28A.03.434.]

**Implementation—Funding required—1984 c 265:** See note following RCW 28A.625.200.

**28A.625.230 Coordinator to develop selection standards.** The coordinator shall develop standards and criteria for selecting students who participate in the program which may include predictive instruments to ascertain aptitude and probability of success. The standards shall include requirements that students take certain courses, maintain a certain grade point average, and participate in activities sponsored by the program. Women and students from minority groups, which are traditionally underrepresented in mathematics and science-related professions and which meet the requirements established by the coordinator shall be selected. [1984 c 265 § 4. Formerly RCW 28A.03.436.]

**Implementation—Funding required—1984 c 265:** See note following RCW 28A.625.200.

**28A.625.240 Local program centers.** The coordinator shall establish local program centers throughout the state to implement RCW 28A.625.210 through 28A.625.230. Each center shall be managed by a center director. Additional staff as necessary may be hired. [1990 c 33 § 521; 1984 c 265 § 5. Formerly RCW 28A.03.438.]

**Implementation—Funding required—1984 c 265:** See note following RCW 28A.625.200.

## SCHOOL IMPROVEMENT AND RESEARCH PROJECTS

**28A.625.300 Grants—Advisory committee—Information clearinghouse.** (1) The superintendent of public instruction is hereby authorized to grant funds for selected school improvement and research projects, including improvements in curriculum, instruction, and classroom management developed by teachers.

(2) The superintendent shall appoint an advisory committee on research and development composed of certificated and noncertificated staff, administrators, curriculum specialists, parents, school directors, postsecondary educators, business persons, and others as the superintendent finds necessary. The committee shall propose criteria to the superintendent to evaluate proposed school improvement and research projects proposed by educational employees. The criteria approved by the superintendent shall: (a) Assure to the extent possible that projects will be chosen which represent the various geographical locations, school or district sizes, and grade levels existent in the state; (b) provide for evaluation of each project upon completion; and (c) include such other requirements as the superintendent finds necessary. The committee shall recommend to the superintendent of public instruction the awarding of grants to fund those proposals showing the most potential for developing knowledge which will be helpful to local districts in their efforts to enhance educational equity and excellence. Projects may involve the collaboration of personnel from higher education institutions and kindergarten through grade twelve educators.

(3) The superintendent of public instruction shall award grants to selected project participants in such amounts as determined by the superintendent of public instruction, who shall take into consideration grant amounts as recommended by the advisory committee on research and development under subsection (2) of this section. The sum of all grants awarded per year shall not exceed that amount appropriated by the legislature for such purposes. Grants may be awarded to individual teachers or teams of teachers including teacher's aides and volunteers.

(4) The superintendent of public instruction shall maintain a clearinghouse of information on these research projects for the use of local districts. [1985 c 349 § 4. Formerly RCW 28A.67.115.]

**Severability—1985 c 349:** See note following RCW 28A.320.200. *State clearinghouse on educational information: RCW 28A.300.130.*

**28A.625.350 Short title.** RCW 28A.625.360 through 28A.625.390 may be known and cited as the Washington award for excellence in teacher preparation act. [1990 1st ex.s. c 10 § 1.]

**Finding—1990 1st ex.s. c 10:** "The legislature finds that excellence in teacher preparation requires increased cooperation and coordination between institutions of higher education and school districts as it relates to the preparation of students into the profession of teaching. The legislature further finds that an increase in the level of such cooperation and coordination in selecting, training, and supervising excellent "cooperating" teachers, and the development of new school and university partnerships, will be beneficial to the teaching profession, and will enhance the ability of all new teachers to perform at a more competent level during their initial teaching experience." [1990 1st ex.s. c 10 § 6.]

**28A.625.360 Excellence in teacher preparation award established.** (1) The state board of education shall establish an annual award program for excellence in teacher preparation to recognize higher education teacher educators for their leadership, contributions, and commitment to education.

(2) The program shall recognize annually one teacher preparation faculty member from one of the teacher preparation programs approved by the state board of education. [1990 1st ex.s. c 10 § 2.]

**Finding—1990 1st ex.s. c 10:** See note following RCW 28A.625.350.

**28A.625.370 Award for teacher educator.** The award for the teacher educator shall include:

(1) A certificate presented to the teacher educator by the governor, the president of the state board of education, and the superintendent of public instruction at a public ceremony; and

(2) A grant to the professional education advisory board of the institution from which the teacher educator is selected, which grant shall not exceed two thousand five hundred dollars and which grant shall be awarded under RCW 28A.625.390. [1990 1st ex.s. c 10 § 3.]

**Finding—1990 1st ex.s. c 10:** See note following RCW 28A.625.350.

**28A.625.380 Rules.** The state board of education shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.360 through 28A.625.390. These rules shall include establishing the selection criteria for the Washington award for excellence in teacher preparation. The state board of education is encouraged to consult with teacher educators, deans, and professional education advisory board members in developing the selection criteria. The criteria shall include any role performed by nominees relative to implementing innovative developments by the nominee's teacher preparation program and efforts the nominee has made to assist in communicating with legislators, common school teachers and administrators and others about the nominee's teacher preparation program. [1990 1st ex.s. c 10 § 4.]

**Finding—1990 1st ex.s. c 10:** See note following RCW 28A.625.350.

**28A.625.390 Educational grant—Eligibility—Award.** The professional education advisory board for the institution from which the teacher educator has been selected to receive an award shall be eligible to apply for an educational grant as provided under RCW 28A.625.370. The state board of education shall award the grant after the state board has approved the grant application as long as the written grant application is submitted to the state board within one year after the award is received by the teacher educator. The grant application shall identify the educational purpose toward which the grant shall be used. [1990 1st ex.s. c 10 § 5.]

**Finding—1990 1st ex.s. c 10:** See note following RCW 28A.625.350.

**28A.625.420 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.625.900 Severability—1990 1st ex.s. c 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 1st ex.s. c 10 § 10.]

**Chapter 28A.630**

**TEMPORARY PROVISIONS—SPECIAL PROJECTS**

Sections

- 28A.630.010 Field tests of educational outcomes and related measures—Report.
- 28A.630.020 Rules.
- 28A.630.030 Use of educational outcomes and related measures as part of a schools for the twenty-first century pilot project.
- 28A.630.040 Application for grants.
- 28A.630.050 Prevention of learning problems and academic delays—Pilot program—Expiration of section.
- 28A.630.060 Prevention of learning problems and academic delays—Study—Expiration of section.
- 28A.630.070 All kids can learn incentive grants—Created.
- 28A.630.075 All kids can learn incentive grants—Terms.
- 28A.630.090 Expiration dates—1987 c 401.
- 28A.630.091 Severability—1987 c 401.

**SCHOOLS FOR THE TWENTY-FIRST CENTURY**

- 28A.630.100 Program established—Goals—Intent.
- 28A.630.110 Duties of state board of education.
- 28A.630.120 Task force—Duties—Members—Travel expenses.
- 28A.630.130 Approval of projects by state board—Recommendations by task force.
- 28A.630.140 Applications—Proposed plan.
- 28A.630.150 Selection of projects.
- 28A.630.160 Administration of program and grant of funding by superintendent—Distribution of grants—Length of projects.
- 28A.630.170 Gifts, grants, and contributions for program—Schools for the twenty-first century pilot program account.
- 28A.630.180 Waivers from certain statutes or rules.
- 28A.630.190 Rules prohibited from being waived—Procedure for requesting waiver of federal regulations.
- 28A.630.200 Resources and support for participant school districts—Use of colleges and universities—Staff development.
- 28A.630.210 Rules.
- 28A.630.220 Reports.

- 28A.630.230 Information on projects—Superintendent's duties through state clearinghouse for education information.
- 28A.630.290 Expiration date—1987 c 525 §§ 101–114.

**INTERNATIONAL EDUCATION**

- 28A.630.300 Legislative findings—Intent.
- 28A.630.310 Repealed.
- 28A.630.320 Grant program—Application procedure.
- 28A.630.330 Rules.
- 28A.630.340 Repealed.
- 28A.630.390 Severability—1987 c 349.

**DEVELOPMENT OF EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM**

- 28A.630.400 Associate of arts degree.

**PROJECT DREAM**

- 28A.630.750 Findings—Purpose.
- 28A.630.753 Short title.
- 28A.630.756 Definitions.
- 28A.630.759 Project DREAM.
- 28A.630.762 Districts' responsibilities.
- 28A.630.765 Adult advisors.
- 28A.630.768 Students' responsibilities.
- 28A.630.771 Reporting requirements.
- 28A.630.774 Superintendent's duties.
- 28A.630.777 Collection and dissemination of information.
- 28A.630.780 Technical support from state agencies.
- 28A.630.783 Rules.
- 28A.630.786 Contingency.
- 28A.630.789 Severability—1991 c 346.

**TEMPORARY PROVISIONS**

- 28A.630.800 Career ladders—Legislative intent to investigate.
- 28A.630.810 Rules.
- 28A.630.820 Intent—1991 c 265. (Expires January 1, 1996.)
- 28A.630.825 Special services demonstration projects—Duties of the superintendent of public instruction—Reports. (Expires January 1, 1996.)
- 28A.630.830 Selection advisory committee—Duties. (Expires January 1, 1996.)
- 28A.630.835 School districts' duties. (Expires January 1, 1996.)
- 28A.630.840 Special services demonstration project funding. (Expires January 1, 1996.)
- 28A.630.850 Expiration date—1991 c 265.

**28A.630.010 Field tests of educational outcomes and related measures—Report.** (Effective until January 2, 1994.) (1) The superintendent of public instruction may select up to ten school districts, from among districts interested and submitting written grant applications, to field test the educational outcomes and related measures developed pursuant to \*RCW 28A.100.013.

(2) The superintendent shall select the school districts by June 30, 1989, and the field tests shall begin with the 1989–90 school year and conclude at the end of the 1992–93 school year.

(3) Each selected school district shall submit annually to the superintendent of public instruction a report on its field test project.

(4) The superintendent of public instruction shall report to the legislature by January 1, 1994, on the results of the field tests of the educational outcomes and related measures. The report shall include a recommendation on whether the outcomes and related measures should be implemented on a state-wide basis. The report shall also include, if the educational outcomes and related measures are judged to be beneficial, a recommendation on whether selected provisions of state statutes or regulations should be amended or repealed if such action would enhance the benefits of the educational outcomes

and related measures. [1987 c 401 § 7. Formerly RCW 28A.100.017.]

\*Reviser's note: RCW 28A.100.013 expired June 30, 1989. See RCW 28A.630.090.

**28A.630.020 Rules.** (Effective until January 2, 1994.) The superintendent of public instruction shall adopt rules as necessary to carry out the purposes of \*RCW 28A.100.011 through 28A.100.017. [1987 c 401 § 8. Formerly RCW 28A.100.018.]

\*Reviser's note: RCW 28A.100.011 through 28A.100.016 have expired. See RCW 28A.630.090.

**28A.630.030 Use of educational outcomes and related measures as part of a schools for the twenty-first century pilot project.** (Effective until January 2, 1994.) No provision of \*this act may prohibit a school district from incorporating the educational outcomes and related measures as part of a schools for the twenty-first century pilot project. [1987 c 401 § 9. Formerly RCW 28A.100.019.]

\*Reviser's note: For codification of "this act" [1987 c 401], see Codification Tables, Volume 0.

**28A.630.040 Application for grants.** (Effective until January 2, 1994.) Teachers are encouraged to apply for funds under the state grant program for school improvement and research projects to develop innovative ways in which to achieve the educational outcomes and to meet both state goals and building-level goals identified under the state required school self-study process. [1987 c 401 § 10. Formerly RCW 28A.100.020.]

**28A.630.050 Prevention of learning problems and academic delays—Pilot program—Expiration of section.** (1) The superintendent of public instruction may select up to five school districts to participate in a pilot program for prevention of learning problems and academic delays. The program shall begin with the 1989-90 school year and conclude at the end of the 1990-91 school year.

(2) If at the end of a pilot school year the number of specific learning disabled students served by a participating school district in handicapped education programs has decreased as a result of the pilot project, the district shall be reimbursed based upon the number of specific learning disabled students served in special education during the school year prior to commencement of the pilot project. These funds will be used to support the pilot project for prevention of learning problems and academic delays: PROVIDED, That school districts participating in the pilot prevention program established under this section who have ongoing pilot projects previously approved by the superintendent of public instruction shall utilize the school year prior to initiation of such pilot project as the base for the reimbursement calculation under this subsection when the number of specific learning disabled students identified has decreased as a result of participation in the pilot program established under this section.

(3) School districts applying to participate in the pilot program established under this section shall submit to the superintendent of public instruction a proposed program budget for the 1989-90 school year and a preliminary budget plan for the 1990-91 school year. These proposed budgets or budget plans shall outline the resources to be used by the district in the identification and early prevention of learning problems. Districts selected to participate shall submit an updated budget proposal to the superintendent of public instruction prior to the 1990-91 school year.

(4) Applications submitted by school districts shall also include:

(a) Assurances that the school district will not deny access to special education programs for handicapped students entitled to services under RCW 28A.155.010 through 28A.155.100;

(b) A description of methods to be used by the district to identify students for additional instruction or other services provided under the pilot project;

(c) A description of the types of instructional programs or services to be used in prevention of learning problems;

(d) A plan for evaluating the effectiveness of the district's project at the end of the 1990-91 school year, using student test scores and other indicators of academic progress and, as appropriate, vocational progress, as determined by the district; and

(e) Other information as may be required by the superintendent of public instruction.

(5) For the purposes of this section, "state allocation for handicapped students" includes state handicapped education moneys allocated for students served in special education programs provided under RCW 28A.155.010 through 28A.155.100 and basic education allocations generated by such students under the state funding formula adopted pursuant to RCW 28A.150.260.

(6) This section shall expire December 31, 1991. [1990 c 33 § 522; 1989 c 233 § 13. Formerly RCW 28A.120.094.]

**28A.630.060 Prevention of learning problems and academic delays—Study—Expiration of section.** (1) Prior to December 1, 1991, the superintendent of public instruction shall submit a report on the pilot program established under RCW 28A.630.050 to the legislature and the governor. The report shall include an analysis of the effectiveness of the program and recommendations on whether the program should be continued or expanded to other districts.

(2) This section shall expire December 31, 1991. [1990 c 33 § 523; 1989 c 233 § 14. Formerly RCW 28A.120.096.]

**28A.630.070 All kids can learn incentive grants—Created.** In recognition of the importance of the process of defining district purposes and systematically working to achieve the desired results using research and practices that work, the legislature creates the all kids can learn incentive grants. [1990 c 148 § 2.]

**Findings—1990 c 148:** "As we face a more complex society and increasing demands are placed on schools and the services they provide for children, it is important that each school and school district determine the role it is to play. In addition to determining their roles, school districts need to be able to implement the plans established using research and practices that work. School districts need incentives to develop and implement mission plans that produce more learning for more students. To develop their visions, school districts must determine what it is that they want and what it is that they have or know. These determinations will enable school districts to develop a vision of what the school districts are trying to accomplish and enable all parties involved to direct all activities in each school in the school district to make the vision come true." [1990 c 148 § 1.]

**28A.630.075 All kids can learn incentive grants—**  
**Terms.** The superintendent of public instruction may grant funds to school districts for schools to plan and implement outcome-based education programs. Such grants shall carry out the purposes of the basic education act. Grants shall be of sufficient size and scope, shall be granted for a five-year period, shall be subject to appropriations, and shall conform to the principles underlying the outcomes-driven education process. [1990 c 148 § 3.]

**Findings—1990 c 148:** See note following RCW 28A.630.070.

**28A.630.090 Expiration dates—1987 c 401.** (1) RCW 28A.100.012 shall expire December 2, 1988.

(2) RCW 28A.100.010, 28A.100.011, and 28A.100.013 through 28A.100.016 shall expire June 30, 1989.

(3) RCW 28A.630.010 through 28A.630.040 shall expire January 2, 1994. [1990 c 33 § 524; 1987 c 401 § 11. Formerly RCW 28A.100.025.]

**28A.630.091 Severability—1987 c 401.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 401 § 13. Formerly RCW 28A.100.026.]

## SCHOOLS FOR THE TWENTY-FIRST CENTURY

**28A.630.100 Program established—Goals—Intent.** (Effective until June 30, 1994.) (1) A schools for the twenty-first century pilot program is established to foster change in the state common school system. The program will enable educators and parents of selected schools or school districts to restructure certain school operations and to develop model school programs which will improve student performance. The program shall include an evaluation of the projects and be accountable for student progress. The purpose of the program is to determine whether increasing local decision-making authority will produce more effective learning.

(2) The legislature intends to encourage educational creativity, professionalism, and initiative by: (a) Providing schools an opportunity to develop new methods and procedures, through the temporary waiver of certain state statutes or administrative rules, and (b) providing selected public schools or school districts with the technology, services, and staff essential to enhance learning. [1987 c 525 § 101. Formerly RCW 28A.100.030.]

**Severability—1987 c 525:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 525 § 305.]

**28A.630.110 Duties of state board of education.** (Effective until June 30, 1994.) The state board of education, with the assistance of the superintendent of public instruction, shall develop a process for schools or school districts to apply to participate in the schools for the twenty-first century pilot program. The board shall review and select projects for grant awards, and monitor and evaluate the schools for the twenty-first century pilot program. The board shall develop criteria to evaluate the need for the waivers of state statutes or administrative rules as identified under RCW 28A.630.180. [1990 c 33 § 525; 1987 c 525 § 102. Formerly RCW 28A.100.032.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.120 Task force—Duties—Members—Travel expenses.** (Effective until June 30, 1994.) (1) The governor shall appoint a task force on schools for the twenty-first century. The task force shall assist and cooperate with the state board of education in the development of the process, and review and selection of projects under RCW 28A.630.110 and with the state board's duties under RCW 28A.630.200. The state board is directed, in developing the criteria for waivers, to take into consideration concerns and recommendations of the task force.

(2) The task force of ten people shall be appointed by the governor. Appointed members who are not legislators shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. Appointed members who are members of the legislature shall be reimbursed for travel expenses under RCW 44.04.120. Members of the task force shall serve for a period of six years. [1990 c 33 § 526; 1987 c 525 § 103. Formerly RCW 28A.100.034.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.130 Approval of projects by state board—Recommendations by task force.** (Effective until June 30, 1994.) The process, review, and selection of projects to be developed in RCW 28A.630.110 shall be approved by the state board of education. The governor's task force on schools for the twenty-first century shall recommend projects for approval to the state board of education. [1990 c 33 § 527; 1987 c 525 § 104. Formerly RCW 28A.100.036.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.140 Applications—Proposed plan.** (Effective until June 30, 1994.) Initial applications to participate in the schools for the twenty-first century pilot program shall be submitted by the school district board of directors to the state board of education not later than May 31, 1988. Subject to available funding, additional applications may be submitted for board consideration by November 1 of subsequent years. Each application shall contain a proposed plan which:

(1) Enumerates specific activities to be carried out as part of the pilot school(s) project;

(2) Commits all parties to work cooperatively during the term of the pilot project;

(3) Includes provisions for certificated school staff, and classified school employees whose primary duties are the daily educational instruction of students, to be employed on supplemental contracts with additional compensation for a minimum of ten additional days beyond the general state funded school year allocations, and staff development time as provided by legislative appropriation, and, notwithstanding the provisions of RCW 28A.58.095(1), district resources may be used to fund the employment of staff beyond the ten additional days for the purposes of the pilot project;

(4) Includes budget plans for the project and additional anticipated sources of funding, including private grants and contributions, if any;

(5) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, or consultants available to provide such services;

(6) Identifies the evaluation and accountability processes to be used to measure school-wide student and project performance, and identifies a model which provides the basis for a staff incentive pay system. Implementation of the staff incentive pay system is not required;

(7) Justifies each request for waiver of specific state statutes or administrative rules during at least the first two years of the project;

(8) Includes a written statement that school directors and administrators are willing to exempt the pilot school(s) from specifically identified local rules, as needed;

(9) Includes a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the pilot school(s) project; and

(10) Includes written statements of support from the district's board of directors, the district superintendent, the principal and staff of the building requesting to become a pilot school; and statements of support, willingness to participate, or concerns from any interested parent, business, or community organization. [1988 c 1 § 1; 1987 c 525 § 105. Formerly RCW 28A.100.038.]

**28A.630.150 Selection of projects. (Effective until June 30, 1994.)** The board, and the task force, after reviewing project proposals, shall, subject to money being appropriated by the legislature for this purpose, select:

(1) Not more than twenty-one projects during each biennium for the schools for the twenty-first century pilot program;

(2) At least one entire school district if the application is consistent with the requirements under RCW 28A.630.110 and 28A.630.140;

(3) Projects which reflect a balance among elementary, junior high or middle schools, and high schools. They should also reflect, as much as possible, a balance among geographical areas and school characteristics and

sizes. [1990 c 33 § 528; 1987 c 525 § 106. Formerly RCW 28A.100.040.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.160 Administration of program and grant of funding by superintendent—Distribution of grants—Length of projects. (Effective until June 30, 1994.)** (1) The superintendent of public instruction shall administer RCW 28A.630.110 and 28A.630.130 through 28A.630.230 and is authorized to award grant funding, subject to money being appropriated by the legislature for this purpose for pilot projects selected by the state board of education under RCW 28A.630.150.

(2) The superintendent of public instruction shall distribute the initial award grants by July 1, 1988. The initial schools for the twenty-first century pilot projects shall commence with the 1988-89 school year.

(3) The twenty-first century pilot school projects may be conducted for up to six years, if funds are so provided. Subject to state board approval and continued state funding, pilot projects initially funded for two years may be extended for a total period not to exceed six years. Future funding shall be conditioned on a positive evaluation of the project. [1990 c 33 § 529; 1987 c 525 § 107. Formerly RCW 28A.100.042.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.170 Gifts, grants, and contributions for program—Schools for the twenty-first century pilot program account. (Effective until June 30, 1994.)** (1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW 28A.630.110 through 28A.630.230 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW 28A.630.110 through 28A.630.230.

(2) The schools for the twenty-first century pilot program account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of RCW 28A.630.110 through 28A.630.230. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1990 c 33 § 530; 1987 c 525 § 108. Formerly RCW 28A.100.044.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.180 Waivers from certain statutes or rules. (Effective until June 30, 1994.)** The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, is authorized to grant waivers to pilot project districts from the provisions of statutes or administrative rules relating to: The length of the school year; teacher contact hour requirements; program hour offerings; student to teacher ratios; salary lid

compliance requirements; the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and other administrative rules which in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order to implement a pilot project proposal. [1987 c 525 § 109. Formerly RCW 28A.100.048.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.190 Rules prohibited from being waived—Procedure for requesting waiver of federal regulations.** (Effective until June 30, 1994.) State rules dealing with public health, safety, and civil rights, including accessibility by the handicapped, shall not be waived. A school district may request the state board of education or the superintendent of public instruction to ask the United States department of education or other federal agencies to waive certain federal regulations necessary to fully implement the proposed pilot project. [1987 c 525 § 110. Formerly RCW 28A.100.050.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.200 Resources and support for participant school districts—Use of colleges and universities—Staff development.** (Effective until June 30, 1994.) The board shall ensure that successful applicant school districts will be afforded resource and special support assistance, as specified in legislative appropriations, in undertaking schools for the twenty-first century pilot program activities. The board shall develop a process that coordinates and facilitates linkages among participating school districts and colleges and universities. Staff from schools or districts selected to participate in the schools for the twenty-first century pilot program shall be given priority consideration for participation in state sponsored staff development programs and summer institutes which are directly related to the goals of the selected projects. [1987 c 525 § 111. Formerly RCW 28A.100.052.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.210 Rules.** (Effective until June 30, 1994.) (1) The state board of education may adopt rules under chapter 34.05 RCW as necessary to implement its duties under RCW 28A.630.110 and 28A.630.130 through 28A.630.230.

(2) The superintendent of public instruction may adopt rules under chapter 34.05 RCW as necessary to implement the superintendent's duties under RCW 28A.630.110 and 28A.630.130 through 28A.630.230. [1990 c 33 § 531; 1987 c 525 § 112. Formerly RCW 28A.100.054.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.220 Reports.** (Effective until June 30, 1994.) (1) The state board of education shall report to the legislature on the progress of the schools for the twenty-first century pilot program by January 15 of

each odd-numbered year, including a recommendation on the number of additional pilot schools which should be authorized and funded. The first report shall be submitted by January 15, 1989.

(2) Each school district selected to participate in the schools for the twenty-first century pilot project shall submit an annual report to the state board of education on the progress of the pilot project as a condition of receipt of continued funding. [1987 c 525 § 113. Formerly RCW 28A.100.056.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.

**28A.630.230 Information on projects—Superintendent's duties through state clearinghouse for education information.** (Effective until June 30, 1994.) The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about the schools for the twenty-first century pilot projects. [1987 c 525 § 114. Formerly RCW 28A.100.058.]

**Severability—1987 c 525:** See note following RCW 28A.630.100.  
*Teacher exchange programs:* RCW 28A.300.200.

**28A.630.290 Expiration date—1987 c 525 §§ 101–114.** RCW 28A.630.100 through 28A.630.230 shall expire June 30, 1994. [1990 c 33 § 532; 1987 c 525 § 115. Formerly RCW 28A.100.068.]

## INTERNATIONAL EDUCATION

**28A.630.300 Legislative findings—Intent.** The legislature finds that the economy of the state of Washington more than that of any other state in the union is dependent on foreign trade, particularly with Pacific Rim countries. If Washington's status as a leading state in international trade is to be maintained and strengthened, students of this state need to be better prepared. The legislature also finds that parents and our public education system can work cooperatively to prepare children as they begin to face complex questions of world order and stability. It is, therefore, the intent of the legislature to provide students with enhanced opportunities to increase their awareness of and understanding about other nations and the relationships of those countries with Washington state. [1987 c 349 § 1. Formerly RCW 28A.125.010.]

**28A.630.310 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.630.320 Grant program—Application procedure.** (1) The superintendent of public instruction may grant funds to selected school districts for the purposes of developing and implementing international education programs. The grants shall be in such amounts as determined by the superintendent of public instruction. The sum of all grants awarded shall not exceed the amount appropriated by the legislature for such purposes.

(2) The grant program shall center on the use of the international education model curriculum or curriculum guidelines developed in \*RCW 28A.630.310. Districts may use the international education model curriculum or curriculum guidelines developed under \*RCW 28A.630.310 as a guideline for creating their own model curriculum for participation in the grant program.

(3) School districts may apply singularly or a group of school districts may apply together to participate in the program.

(4) School districts applying for the international education grant program shall submit a plan which includes:

(a) Participation by the school district in both the model curriculum or curriculum guidelines development activities and the grant program activities provided for by RCW 28A.630.300 through 28A.630.390;

(b) The application or intent to conduct a foreign language program including either Japanese or Mandarin Chinese beginning in the ninth grade;

(c) A staff in-service training program addressing the implementation of international education curriculum;

(d) A goal to enlist participation where possible by private enterprise, cultural and ethnic associations, foreign trade or policy organizations, the local community, exchange students and students who have participated in exchange programs, and parents;

(e) Evaluation of the pilot program.

(5) To the extent possible, selected school districts shall represent the various geographical locations, school or school district sizes, and grade levels in the state.

(6) By January 1, 1988, the superintendent of public instruction shall select five school district grantees for the program. The program shall be implemented beginning with the 1988-89 school year.

(7) The program in international education shall be considered a social studies offering for the purpose of RCW 28A.230.090(1). [1990 c 33 § 534; 1987 c 349 § 3. Formerly RCW 28A.125.030.]

\*Reviser's note: RCW 28A.630.310 was repealed by 1991 c 116 § 26.

**28A.630.330 Rules.** The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.630.300 through 28A.630.320. [1990 c 33 § 535; 1987 c 349 § 4. Formerly RCW 28A.125.040.]

**28A.630.340 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28A.630.390 Severability—1987 c 349.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 349 § 7. Formerly RCW 28A.125.900.]

## DEVELOPMENT OF EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM

**28A.630.400 Associate of arts degree.** (1) The state board of education and the \*state board for community college education, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall work cooperatively to develop by September 1, 1992, an educational paraprofessional associate of arts degree.

(2) As used in this section, an "educational paraprofessional" is an individual who has completed an associate of arts degree for an educational paraprofessional. The educational paraprofessional may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The educational paraprofessional shall work under the direction of instructional certificated staff.

(3) The training program for an educational paraprofessional associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to handicapped children, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) In developing the program, consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

(5) The agencies identified under subsection (1) of this section shall adopt rules as necessary under chapter 34.05 RCW to implement this section. [1991 c 285 § 2; 1989 c 370 § 1. Formerly RCW 28A.04.180.]

\*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

## PROJECT DREAM

**28A.630.750 Findings—Purpose.** (1) The legislature finds that more and more young people, especially in the urban areas of the state, are becoming involved with gangs, substance abuse, including drug trafficking, and teen pregnancy. As they become involved in such activities, they more frequently drop out of school than other students and are at greater risk of experiencing unemployment, becoming involved with criminal activities, and turning to public assistance programs for support. The end result is harm to both themselves and society. Substance abuse, gang activity, unemployment, and teen pregnancy are taking a disproportionate toll on minority youth.

(2) The legislature further finds that existing programs take a piecemeal approach to the needs of at-risk

youth, offering only limited services. As a consequence, the current programs are not adequately effective in stopping the proliferation of gangs, substance abuse, unemployment, teen pregnancy, or other problems among youth, particularly in the urban areas of the state. Studies show clearly that poor academic performance plays a significant part in these problems.

(3) The purpose of RCW 28A.630.750 through 28A.630.783 is to create a cost-effective program that will challenge, motivate, and give incentive to underachieving, at-risk students in an effort to: Boost their academic achievement in school; reduce their involvement with gangs and substance abuse; reduce the numbers of at-risk youth, particularly minorities, who are unemployed; and reduce the number of teen pregnancies. [1991 c 346 § 1.]

Contingency—1991 c 346: See RCW 28A.630.786.

**28A.630.753 Short title.** RCW 28A.630.750 through 28A.630.789 shall be known and may be cited as project DREAM (dare to reach for educational aspirations and marks). [1991 c 346 § 2.]

Contingency—1991 c 346: See RCW 28A.630.786.

**28A.630.756 Definitions.** Unless the context clearly indicates otherwise, the definitions in this section apply throughout RCW 28A.630.759 through 28A.630.783.

(1) "Advisor" means an adult assigned specific responsibilities to work individually with at-risk students who receive services under project DREAM established under RCW 28A.630.759. Advisors shall not be required to be professionally certificated.

(2) "At-risk student" or "student" means a student age fourteen through age twenty-one who meets the following criteria:

(a) The student is one or more grade levels behind in basic skills as determined by placement testing or has not graduated from high school or has not successfully completed the general educational development test;

(b) The student has violated school district or school building rules of conduct on at least three occasions in the same school year, is pregnant, or is a parent;

(c) The student comes from an historically disadvantaged group; and

(d) The family income level of the student is below the median level for the state.

(3) "Department" means the department of social and health services.

(4) "Superintendent" means the state superintendent of public instruction. [1991 c 346 § 3.]

Contingency—1991 c 346: See RCW 28A.630.786.

**28A.630.759 Project DREAM.** (1) The superintendent, working with the employment security department, the department of social and health services, the \*state board for vocational education in the office of the governor, and other state agencies as are appropriate, shall be the lead agency in developing and administering

project DREAM, dare to reach for educational aspirations and marks, a pilot grant program for academic excellence for underachieving, at-risk students. The program shall emphasize a focus on minority students but shall not be exclusively limited to serving minority students.

(2) Initially, the program shall be limited to the school districts of Seattle, Tacoma, Spokane, Yakima, and Pasco, focusing on the areas within these school districts with the highest percentages of underachieving, at-risk students.

(3) Project DREAM shall commence at the beginning of the school year following receipt of federal funds by the superintendent of public instruction and, subject to continued federal or state funding, end at the completion of the fourth school year following implementation of the program. [1991 c 346 § 4.]

\*Reviser's note: Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 3.

Contingency—1991 c 346: See RCW 28A.630.786.

**28A.630.762 Districts' responsibilities.** Each school district participating in project DREAM shall be responsible for the following:

(1) Individual programs under project DREAM shall consist of the following:

(a) Academic counseling and outreach, including study skills;

(b) Parent and family outreach and involvement;

(c) Employment and vocational counseling and training;

(d) Substance abuse awareness and counseling, and treatment as necessary;

(e) Teen pregnancy and teen parenting counseling; and

(f) Positive self-image building.

(2) In designing the local program, the participating districts are encouraged to consider:

(a) Dropout prevention strategies developed by school districts under RCW 28A.175.020 through 28A.175.070, the state grant program for local school district student motivation, retention, and retrieval programs; and

(b) Substance abuse prevention, intervention, and aftercare strategies developed by school districts under RCW 28A.170.010 through 28A.170.070, the state grant program for local school district substance abuse awareness programs.

(3) In designing the local program, the participating districts shall:

(a) Contact the local job service center to establish how the center can assist the district in providing participating students employment and vocational counseling and training; and

(b) Contact branch offices of the department and local community-based providers of health care to establish how these entities can and will assist the district in providing participating students counseling and information, and treatment as necessary, relating to substance

abuse, teen pregnancy, and teen parenting. [1991 c 346 § 5.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.765 Adult advisors.** (1) The participating districts shall be responsible for screening and employing adult advisors and for providing any training necessary for the adult advisors to carry out their responsibilities effectively.

(2) Each adult advisor shall be responsible for the following:

(a) Maintaining a caseload of at-risk students not to exceed fifteen;

(b) Signing a written agreement with each student to comply with specific state or local regulations, or both, while participating in project DREAM;

(c) Meeting weekly with each student to monitor the student's progress under project DREAM;

(d) Meeting bi-weekly with each student's teachers, school counselor, and parents or guardian, and family members;

(e) Maintaining for each student a portfolio; and

(f) Serving as the facilitator in getting the student together with school or community-based health care providers, vocational counselors, job service center personnel, employment interviews, and other persons or groups that can help the student gain maximum benefits from participating in project DREAM. [1991 c 346 § 6.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.768 Students' responsibilities.** Each student shall be responsible to do the following:

(1) Sign a written agreement with his or her adult advisor to comply with all state or local regulations, or both, while a participant in project DREAM;

(2) Meet weekly with his or her adult advisor to discuss the student's progress;

(3) Maintain a personal written or audio portfolio;

(4) Attend all programs, seminars, training sessions, and other activities arranged by their advisor; and

(5) Maintain regular attendance at school or at work or both. [1991 c 346 § 7.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.771 Reporting requirements.** (1) Each school district participating in project DREAM shall submit annually to the superintendent of public instruction a report on the district's local program. The report shall include an assessment of the effectiveness of the services, programs, or activities provided to the participating at-risk students and other information required by the superintendent. The superintendent shall establish the date for submittal of reports.

(2) The superintendent shall work with the participating districts in developing reporting requirements that do not create excessive paperwork but that provide information necessary for the superintendent to evaluate the impact of project DREAM on the participating at-risk students.

(3) The superintendent shall submit annually to the legislature and the governor a report on project DREAM. The first report shall be submitted not later than December 1 of the second school year following implementation of the program, and each succeeding report shall be submitted not later than December 1st.

(4) The superintendent's reports shall include information on how many students have or are participating in the local programs and the success of the programs in meeting the needs of the participating at-risk students. [1991 c 346 § 8.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.774 Superintendent's duties.** The superintendent shall undertake the following activities:

(1) Organize a speakers' bureau of prominent role models, with an emphasis on minority role models;

(2) Meet with community and business leaders to market project DREAM; and

(3) Coordinate with other state and local agencies a centralized data base of preexisting services that can meet the purposes of project DREAM. [1991 c 346 § 9.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.777 Collection and dissemination of information.** Through the state clearinghouse for education information, the superintendent shall collect and disseminate to school districts and other interested parties information about project DREAM. [1991 c 346 § 10.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.780 Technical support from state agencies.** The employment security department, the department of social and health services, the \*state board for vocational education in the office of the governor, and other state agencies as may be involved with the development of project DREAM, shall assist the superintendent in providing appropriate and necessary technical support and assistance to the school districts participating in project DREAM. [1991 c 346 § 11.]

\*Reviser's note: Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 3.

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.783 Rules.** (1) The superintendent shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of RCW 28A.630.750 through 28A.630.777.

(2) The respective agencies under RCW 28A.630.780 shall adopt rules as necessary under chapter 34.05 RCW to implement RCW 28A.630.780. [1991 c 346 § 12.]

**Contingency**—1991 c 346: See RCW 28A.630.786.

**28A.630.786 Contingency.** RCW 28A.630.750 through 28A.630.789 shall take effect when the superintendent of public instruction receives funds made available for the purposes of RCW 28A.630.750 through 28A.630.789 and only if such funds are received by June 30, 1993. [1991 c 346 § 13.]

**28A.630.789 Severability—1991 c 346.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 346 § 14.]

### TEMPORARY PROVISIONS

**28A.630.800 Career ladders—Legislative intent to investigate.** The legislature recognizes the need to keep and attract quality teachers in our public schools. The legislature intends to examine the effectiveness of a career ladder in our public schools. To improve the quality of teaching and foster a professional climate which encourages creativity and cooperation among teachers and enhances the intrinsic rewards teachers experience from helping students learn, the legislature intends to locally test ways in which the goal of attracting and retaining excellent teachers might be accomplished. The legislature recognizes that a career ladder system is one means of enhancing the attractiveness of teaching; however, the legislature wishes to investigate this concept further prior to determining whether to develop such a system. [1985 c 349 § 3. Formerly RCW 28A.67.120.]

**Severability—1985 c 349:** See note following RCW 28A.320.200.

**28A.630.810 Rules.** The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of \*this act. [1989 c 233 § 17. Formerly RCW 28A.120.800.]

**\*Reviser's note:** "This act" consisted of the enactment of RCW 28A.31.170, 28A.41.172, 28A.120.090, 28A.120.092, 28A.120.094, 28A.120.096, and 28A.120.800, the 1989 c 233 amendments to RCW 28A.120.010, 28A.120.016, 28A.120.020, 28A.120.032, 28A.58.217, and 28A.02.061, and several uncodified and vetoed sections.

**28A.630.820 Intent—1991 c 265. (Expires January 1, 1996.)** It is the intent of the legislature to (1) encourage school districts, individually and cooperatively, to develop innovative special services demonstration projects that use resources efficiently and increase student learning; (2) promote noncategorical approaches to special services program design, funding, and administration; (3) develop efficient and cost-effective means for identifying students as specific learning disabled, in order to increase the proportion of resources devoted to classroom instruction; and (4) provide a means to grant waivers from state rules. [1991 c 265 § 1.]

**Expiration date—1991 c 265:** See RCW 28A.630.850.

**28A.630.825 Special services demonstration projects—Duties of the superintendent of public instruction—Reports. (Expires January 1, 1996.)** The superintendent of public instruction shall:

- (1) Make ten to twenty-five awards for demonstration projects in individual school districts and cooperatives;
- (2) Make awards for in-service training of teachers and other staff;
- (3) Provide technical assistance;

(4) Grant waivers from state rules needed to implement the projects, or request such waivers to be granted by the appropriate agency;

(5) Contract with school districts for demonstration projects and make contract payments in accordance with RCW 28A.630.820 through 28A.630.840;

(6) Perform or contract for an evaluation of the projects;

(7) Confer on the evaluation design with the selection advisory committee; and

(8) Submit to the legislature an interim report on the evaluation by December 31, 1993, and a final report by December 31, 1995. [1991 c 265 § 2.]

**Expiration date—1991 c 265:** See RCW 28A.630.850.

**28A.630.830 Selection advisory committee—Duties. (Expires January 1, 1996.)** (1) The selection advisory committee is created. The committee shall be composed of up to three members from the house of representatives, up to three members from the senate, up to two members from the office of the superintendent of public instruction, and one member from each of the following: The office of financial management, Washington state special education coalition, transitional bilingual instruction educators, and Washington education association.

(2) The legislative budget committee and the superintendent of public instruction shall provide staff for the selection advisory committee.

(3) The selection advisory committee shall:

(a) Develop appropriate criteria for selecting demonstration projects;

(b) Issue requests for proposals in accordance with RCW 28A.630.820 through 28A.630.840 for demonstration projects to commence during the 1991–92 and 1992–93 school years;

(c) Review proposals and recommend demonstration projects for approval by the superintendent of public instruction;

(d) Advise the superintendent of public instruction on the evaluation design; and

(e) Report each year by December 1st on the status of the demonstration projects to the legislative budget committee and the appropriate policy and fiscal committees of the house of representatives and the senate. [1991 c 265 § 3.]

**Expiration date—1991 c 265:** See RCW 28A.630.850.

**28A.630.835 School districts' duties. (Expires January 1, 1996.)** School districts with demonstration projects shall:

(1) Confer on a regular basis during project planning and implementation with teachers, support staff, parents of handicapped students, and parents of other students served in the project;

(2) Administer annual achievement tests to all students served in the project if required in the project contract; and

(3) Cooperate in providing all information needed for the evaluation. [1991 c 265 § 4.]

Expiration date—1991 c 265: See RCW 28A.630.850.

**28A.630.840 Special services demonstration project funding. (Expires January 1, 1996.)** (1) Project funding may include state, federal, and local funds, as specified by the district in its approved project cost proposal. The superintendent of public instruction shall include all project funding for a participating district in a project contract and disburse the funds as contract payments.

(2) As a general guideline, subject to refinements in the district cost proposal and approval by the superintendent of public instruction, the portion of state handicapped funding included as project funding shall be determined as follows:

(a) If the district serves specific learning disabled students in the project, the portion of the handicapped allocation attributed to specific learning disabled students shall be included, with proportional adjustments if the project serves only part of the district's specific learning disabled population;

(b) If other handicapped students are served in the project, the portions of the handicapped allocation attributed to those students shall be included, with proportional adjustments if the project serves only part of the district's population in those categories of handicapped students.

(3) State handicapped allocations shall be calculated for project districts according to the handicapped funding formula in use for other districts, but with the following changes:

(a) Except as provided in (b) of this subsection, funding in each school year for specific learning disabled and other handicapped students served in a project shall be based on the average percentage of the kindergarten through twelfth grade enrollment in the particular handicapped category during the prior three years.

(b) Project funding for school districts that had pilot projects approved under section 13, chapter 233, Laws of 1989, shall be based for the duration of a project under RCW 28A.630.820 through 28A.630.840 on four percent of the kindergarten through twelfth grade enrollment considered as specific learning disabled, without regard to the actual number of students so identified. The legislature recognizes the importance of continuing and developing the pilot projects.

(c) The funding percentages for demonstration projects specified in (a) and (b) of this subsection shall be used to adjust basic education allocations under RCW 28A.150.260 and learning assistance program allocations under RCW 28A.165.070.

(d) State handicapped allocations under subsection (2) of this section up to the level required by federal maintenance of effort rules shall be expended for services to handicapped students in the project. Allocations greater than the amount needed to comply with federal maintenance of effort rules shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(4) Federal handicapped allocations may be designated in whole or in part for project use, if the amounts

are included in the district's approved cost proposal and the project contract.

(5) Learning assistance program allocations may be designated in whole or in part for project use, if the amounts are included in the district's approved cost proposal and the project contract. These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(6) Transitional bilingual program allocations may be designated in whole or in part for project use, if the amounts are included in the district's approved cost proposal and the project contract. These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(7) Funding under the federal remediation program allocations may be designated in whole or in part for project use, if the amounts are included in the district's approved cost proposal and the project contract.

(8) Funding from local sources may be designated for project use, if the amounts are included in the district's approved cost proposal and the project contract.

(9) Expenditures of noncategorical project funds under subsections (3)(d), (5), and (6) of this section shall be accounted for in new and discrete program or subprogram codes designated by the superintendent of public instruction. The codes shall take effect by September 1, 1991. [1991 c 265 § 5.]

Expiration date—1991 c 265: See RCW 28A.630.850.

**28A.630.850 Expiration date—1991 c 265.** Sections 1 through 5 of this act shall expire January 1, 1996. [1991 c 265 § 7.]

## Chapter 28A.635

### OFFENSES RELATING TO SCHOOL PROPERTY AND PERSONNEL

#### Sections

28A.635.010	Abusing or insulting teachers, liability for—Penalty.
28A.635.020	Willfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.
28A.635.030	Disturbing school, school activities or meetings—Penalty.
28A.635.040	Examination questions—Disclosing—Penalty.
28A.635.050	Certain corrupt practices of school officials—Penalty.
28A.635.060	Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected.
28A.635.070	Property, failure of officials or employees to account for—Mutilation by—Penalties.
28A.635.080	Director's connivance to employ uncertified teachers—Liability.
28A.635.090	Interfering by force or violence with any administrator, teacher, classified employee, or student unlawful.

- 28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.
- 28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100—Disciplinary authority exception.
- 28A.635.120 Violations under RCW 28A.635.090 and 28A.635.100—Penalty.

**28A.635.010 Abusing or insulting teachers, liability for—Penalty.** Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his or her official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars. [1990 c 33 § 536; 1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28A.87.010, 28.87.010.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.  
**Intent—1984 c 258:** See note following RCW 3.46.120.

**28A.635.020 Willfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.** (1) It shall be unlawful for any person to willfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is under the influence of alcohol or drugs, or is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order of a school officer or designee acting pursuant to this subsection shall be valid if the officer or designee reasonably believes a person ordered to leave is under the influence of alcohol or drugs, is committing acts, or is creating a disturbance as provided in this subsection.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress of grievances: PROVIDED, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any

lawful task, function, process or procedure of any student, official, employee or invitee of the school district: PROVIDED FURTHER, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not more than five hundred dollars, or imprisoned in jail for not more than six months or both so fined and imprisoned. [1981 c 36 § 1; 1975-'76 2nd ex.s. c 100 § 1. Formerly RCW 28A.87.055.]

**Severability—1975-'76 2nd ex.s. c 100:** "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 100 § 3.]

**28A.635.030 Disturbing school, school activities or meetings—Penalty.** Any person who shall willfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars. [1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28A.87.060, 28.87.060.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.  
**Intent—1984 c 258:** See note following RCW 3.46.120.

**28A.635.040 Examination questions—Disclosing—Penalty.** Any person having access to any question or questions prepared for the examination of teachers or common school pupils, who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars. [1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28A.87.070, 28.87.070.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.  
**Intent—1984 c 258:** See note following RCW 3.46.120.

**28A.635.050 Certain corrupt practices of school officials—Penalty.** Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of the superintendent's office, any educational service district superintendent, any school district superintendent or principal, or any director of any school district, to request or receive, directly or indirectly, anything of value for or on account of his or her influence with respect to any act or proceeding of the state board of education, the office of the

superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

Any willful violation of the provisions of this section shall be a misdemeanor and punished as such. [1990 c 33 § 537; 1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28A.87.090, 28.87.090.]

**Rights preserved—Severability—1969 ex.s. c 176:** See notes following RCW 28A.310.010.

**28A.635.060 Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected.**

(1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or willfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason. [1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28A.87.120, 28.87.120.]

*Action against parent for willful injury to property by minor—Monetary limitation—Common law liability preserved: RCW 4.24.190.*

**28A.635.070 Property, failure of officials or employees to account for—Mutilation by—Penalties.** Any school district official or employee who shall refuse or fail to deliver to his or her qualified successor all books, papers, and records pertaining to his or her position, or who shall willfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: PROVIDED, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred. [1990 c 33 § 538; 1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049,

part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.130, 28.87.130, part.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Intent—1984 c 258:** See note following RCW 3.46.120.

**28A.635.080 Director's connivance to employ uncertified teachers—Liability.** Any school district director who shall aid in or give his or her consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter 28A.410 RCW authorizing him or her to teach in the school district by which employed shall be personally liable to his or her district for any loss which it may sustain by reason of the employment of such person. [1990 c 33 § 539; 1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.135, 28.87.130, part, 28.87.160.]

**28A.635.090 Interfering by force or violence with any administrator, teacher, classified employee, or student unlawful.** It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. [1990 c 33 § 540; 1988 c 2 § 1; 1971 c 45 § 3. Formerly RCW 28A.87.230.]

**28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.** It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. [1990 c 33 § 541; 1988 c 2 § 2; 1971 c 45 § 4. Formerly RCW 28A.87.231.]

**28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100—Disciplinary authority exception.** The crimes defined in RCW 28A.635.090 and 28A.635.100 shall not apply to school administrators, teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority. [1990 c 33 § 542; 1988 c 2 § 3; 1971 c 45 § 5. Formerly RCW 28A.87.232.]

**28A.635.120 Violations under RCW 28A.635.090 and 28A.635.100—Penalty.** Any person guilty of violating RCW 28A.635.090 and 28A.635.100 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment. [1990 c 33 § 543; 1971 c 45 § 6. Formerly RCW 28A.87.233.]

**Severability—1971 c 45:** See note following RCW 28B.10.570.

**Chapter 28A.640**  
**SEXUAL EQUALITY**

## Sections

- 28A.640.010 Purpose—Discrimination prohibited.  
 28A.640.020 Regulations, guidelines to eliminate discrimination—  
 Scope.  
 28A.640.030 Administration.  
 28A.640.040 Civil relief for violations.  
 28A.640.050 Enforcement—Superintendent's orders, scope.  
 28A.640.900 Chapter supplementary.

**28A.640.010 Purpose—Discrimination prohibited.** Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state is a breach of Article XXXI, section 1, Amendment 61, of the Washington state Constitution, requiring equal treatment of all citizens regardless of sex. This violation of rights has had a deleterious effect on the individuals affected and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex for any student in grades K-12 of the Washington public schools is prohibited. [1975 1st ex.s. c 226 § 1. Formerly RCW 28A.85.010.]

**Severability—1975 1st ex.s. c 226:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 226 § 8.]

**28A.640.020 Regulations, guidelines to eliminate discrimination—Scope.** The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(1) Specifically with respect to public school employment, all schools shall be required to:

(a) Maintain credential requirements for all personnel without regard to sex;

(b) Make no differentiation in pay scale on the basis of sex;

(c) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed.

(d) Provide the same opportunities for advancement to males and females; and

(e) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(2) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to sex.

(3) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard to sex. Schools may provide separate teams

for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: **PROVIDED**, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(4) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: **PROVIDED**, That separation is permitted within any class during sessions on sex education or gym classes.

(5) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audio-visual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: **PROVIDED**, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes. [1975 1st ex.s. c 226 § 2. Formerly RCW 28A.85.020.]

**Severability—1975 1st ex.s. c 226:** See note following RCW 28A.640.010.

**28A.640.030 Administration.** The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and regulations for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts. [1975 1st ex.s. c 226 § 3. Formerly RCW 28A.85.030.]

**Severability—1975 1st ex.s. c 226:** See note following RCW 28A.640.010.

**28A.640.040 Civil relief for violations.** Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any regulation or guideline adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine. [1975 1st ex.s. c 226 § 4. Formerly RCW 28A.85.040.]

**Severability—1975 1st ex.s. c 226:** See note following RCW 28A.640.010.

**28A.640.050 Enforcement—Superintendent's orders, scope.** The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.05 RCW, which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved. [1975 1st ex.s. c 226 § 5. Formerly RCW 28A.85.050.]

**Severability—1975 1st ex.s. c 226:** See note following RCW 28A.640.010.

**28A.640.900 Chapter supplementary.** This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on sex. [1975 1st ex.s. c 226 § 6. Formerly RCW 28A.85.900.]

**Severability—1975 1st ex.s. c 226:** See note following RCW 28A.640.010.

## Chapter 28A.645 APPEALS FROM BOARD

### Sections

- 28A.645.010 Appeals—Notice of—Scope—Time limitation.
- 28A.645.020 Transcript filed, certified.
- 28A.645.030 Appeal to be heard de novo and expeditiously.
- 28A.645.040 Certified copy of decision to county assessor when school district boundaries changed.

**28A.645.010 Appeals—Notice of—Scope—Time limitation.** Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapters 28A.400 and 28A.405 RCW therefor and in all other cases shall be governed by chapter 28A.645 RCW. [1990 c 33 § 544; 1971 ex.s. c 282 § 40; 1969 ex.s. c 34 § 17; 1969 ex.s. c 223 § 28A.88.010. Prior: 1961 c 241 §

9; 1909 c 97 p 362 § 1; RRS § 5064. Formerly RCW 28A.88.010, 28.88.010.] [SLC—RO—1.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

*RCW 28A.645.010 not applicable to contract renewal of school superintendent: RCW 28A.400.010.*

**28A.645.020 Transcript filed, certified.** Within twenty days of service of the notice of appeal, the school board, at its expense, or the school official, at such official's expense, shall file the complete transcript of the evidence and the papers and exhibits relating to the decision for which a complaint has been filed. Such filings shall be certified to be correct. [1971 ex.s. c 282 § 41. Formerly RCW 28A.88.013.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.645.030 Appeal to be heard de novo and expeditiously.** Any appeal to the superior court shall be heard de novo by the superior court. Such appeal shall be heard expeditiously. [1971 ex.s. c 282 § 42. Formerly RCW 28A.88.015.]

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.645.040 Certified copy of decision to county assessor when school district boundaries changed.** In cases of appeal resulting in the change of any school district boundaries the decision shall within five days thereafter be also certified by the proper officer to the county assessor of the county, or to the county assessors of the counties, wherein the territory may lie. [1969 ex.s. c 223 § 28A.88.090. Prior: 1909 c 97 p 364 § 8; RRS § 5071. Formerly RCW 28A.88.090, 28.88.090.]

## Chapter 28A.690 AGREEMENT ON QUALIFICATIONS OF PERSONNEL

### Sections

- 28A.690.010 Compact entered into—Terms.
- 28A.690.020 Superintendent as "designated state official", compact administrator—Board to approve text of contracts.
- 28A.690.030 True copies of contracts filed in office of superintendent—Publication.

**28A.690.010 Compact entered into—Terms.** The Interstate Agreement on Qualifications of Educational Personnel is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

### Article I

1. The states party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and

experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his or her state, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III

1. The designated state official of a party state may make one or more contracts on behalf of his or her state with one or more other party states providing for the acceptance of educational personnel. Any such contract

for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he or she finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his or her own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

## Article V

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

## Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

## Article VII

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

## Article VIII

1. This Agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this Agreement.

2. Any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

## Article IX

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters. [1990 c 33 § 545; 1969 ex.s. c 283 § 4. Formerly RCW 28A.93.010, 28.93.010.]

**Severability**—1969 ex.s. c 283: See note following RCW 28A.150.050.

**28A.690.020 Superintendent as "designated state official", compact administrator**—Board to approve text of contracts. The "designated state official" for this state under Article II of RCW 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to promulgate rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the state board of education. [1990 c 33 § 546; 1969 ex.s. c 283 § 5. Formerly RCW 28A.93.020, 28.93.020.]

**Severability**—1969 ex.s. c 283: See note following RCW 28A.150.050.

**28A.690.030 True copies of contracts filed in office of superintendent**—Publication. True copies of all contracts made on behalf of this state pursuant to the Agreement as provided in RCW 28A.690.010 shall be kept on file in the office of the superintendent of public instruction. The superintendent of public instruction shall publish all such contracts in convenient form. [1990 c 33 § 547; 1969 ex.s. c 283 § 6. Formerly RCW 28A.93.030, 28.93.030.]

**Severability**—1969 ex.s. c 283: See note following RCW 28A.150.050.

## Chapter 28A.695

## COMPACT FOR EDUCATION

## Sections

28A.695.010	Compact entered into—Terms.
28A.695.020	State representation on education commission—Members, both designated and appointed.
28A.695.030	State representation on education commission—Terms of appointed members—Filling vacancies.
28A.695.040	State representation on education commission—Chair—Cooperation with other entities—Employees.
28A.695.050	State representation on education commission—Payment of travel expenses of members—Limitations.
28A.695.060	State representation on education commission—Grant of powers to commissioners.
28A.695.070	State officers to aid in implementation of compact.
28A.695.080	Bylaws to be filed with secretary of state.

**28A.695.010 Compact entered into**—Terms. The Compact for Education is hereby entered into with all jurisdictions joining therein, in the form as follows:

## COMPACT FOR EDUCATION

## ARTICLE I—PURPOSE AND POLICY

- A. It is the purpose of this compact to:
1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
  2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.
  3. Provide a clearing house of information on matters relating to educational problems and how

they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

- B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.
- C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

#### ARTICLE II—STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

#### ARTICLE III—THE COMMISSION

- A. The Education Commission of the States, hereinafter called "the Commission", is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State, shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the

interests of the State Government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

- B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(J).
- C. The Commission shall have a seal.
- D. The Commission shall elect annually, from among its members, a chair, who shall be a Governor, a vice-chair and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.
- E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.
- F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies,

materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

- H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.
- I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.
- J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

#### ARTICLE IV—POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### ARTICLE V—COOPERATION WITH FEDERAL GOVERNMENT

- A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.
- B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### ARTICLE VI—COMMITTEES

- A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The chair, vice-chair, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.
- B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States. The Commission may establish such additional committees as its bylaws may provide.

- C. The Commission may establish such additional committees as its bylaws may provided.

#### ARTICLE VII—FINANCE

- A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.
- B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.
- C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(G) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(G) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.
- D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant; and the report of the audit shall be included in and become part of the annual reports of the Commission.
- E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.
- F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

#### ARTICLE VIII—ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

- A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him or her.
- B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided

that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

- C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.
- D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

#### ARTICLE IX—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters. [1990 c 33 § 548; 1969 ex.s. c 223 § 28A.92.010. Prior: 1967 c 83 § 1. Formerly RCW 28A.92.010, 28.92.010.]

**Reviser's note:** Subparts B and C of Article VIII were inadvertently omitted when this section was recodified by chapter 33, Laws of 1990. The code reviser's office has corrected this error by reinserting these subparts.

**28A.695.020 State representation on education commission—Members, both designated and appointed.** The seven members of the education commission of the state representing the state of Washington are designated or shall be appointed as follows: (1) The governor; (2) a member of the senate appointed by the president; (3) a member of the house of representatives appointed by the speaker; and (4) four members appointed by the governor. Appointments shall be made in accordance with the guiding principles set forth in Article III(A) of

the compact. [1969 ex.s. c 223 § 28A.92.020. Prior: 1967 c 83 § 2. Formerly RCW 28A.92.020, 28.92.020.]

**28A.695.030 State representation on education commission—Terms of appointed members—Filling vacancies.** The term of the members appointed by the president and the speaker shall be dependent upon continued membership in the house from which appointed and shall expire upon the adjournment sine die of the regular session of the legislature during an odd-numbered year next succeeding the appointment of such member. Vacancies occurring during the term shall be filled for the unexpired term by the appointment of a successor in the same manner as for the vacating member. Members appointed by the governor shall serve at the governor's pleasure. [1990 c 33 § 549; 1980 c 87 § 7; 1969 ex.s. c 223 § 28A.92.030. Prior: 1967 c 83 § 3. Formerly RCW 28A.92.030, 28.92.030.]

**28A.695.040 State representation on education commission—Chair—Cooperation with other entities—Employees.** The governor or a member designated by the governor shall be chair of the members of the commission representing this state.

The commissioners shall cooperate with all public and private entities having an interest in educational matters.

The commissioners may employ such professional, technical and clerical assistance as may be required to aid them in carrying out their functions in this chapter prescribed. [1990 c 33 § 550; 1969 ex.s. c 223 § 28A.92.040. Prior: 1967 c 83 § 4. Formerly RCW 28A.92.040, 28.92.040.]

**28A.695.050 State representation on education commission—Payment of travel expenses of members—Limitations.** Each member of the commission from the state of Washington shall be paid, from funds appropriated by the legislature of the state of Washington for that purpose, travel expenses in accordance with RCW 43.03.050 and 43.03.060. Such member may, regardless of any charter or statutory provision to the contrary, be an officer or employee holding another public position. [1984 c 287 § 61; 1975-'76 2nd ex.s. c 34 § 71; 1969 ex.s. c 223 § 28A.92.050. Prior: 1967 c 83 § 5. Formerly RCW 28A.92.050, 28.92.050.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**28A.695.060 State representation on education commission—Grant of powers to commissioners.** There is hereby granted to the commissioners representing this state all the powers provided for in said compact and all powers necessary or incidental to the carrying out of said compact in every particular. [1969 ex.s. c 223 § 28A.92.060. Prior: 1967 c 83 § 6. Formerly RCW 28A.92.060, 28.92.060.]

**28A.695.070 State officers to aid in implementation of compact.** All officers of this state are hereby authorized and directed to do all things, falling within their respective provinces and jurisdiction, necessary to or incidental to the carrying out of the compact for education in every particular. All officers, bureaus, departments and persons of and in the government or administration of this state are hereby authorized and directed, at convenient times and upon the request of the commissioners representing this state, to furnish the education commission with information and data possessed by them or any of them, and to aid the commission by any means lying within their legal powers respectively. [1969 ex.s. c 223 § 28A.92.070. Prior: 1967 c 83 § 7. Formerly RCW 28A.92.070, 28.92.070.]

**28A.695.080 Bylaws to be filed with secretary of state.** Pursuant to Article III(I) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the secretary of state. [1969 ex.s. c 223 § 28A.92.080. Prior: 1967 c 83 § 8. Formerly RCW 28A.92.080, 28.92.080.]

## Chapter 28A.900 CONSTRUCTION

### Sections

- 28A.900.010 Repeals and savings.
- 28A.900.030 Continuation of existing law.
- 28A.900.040 Provisions to be construed in pari materia.
- 28A.900.050 Title, chapter, section headings not part of law.
- 28A.900.060 Invalidity of part of title not to affect remainder.
- 28A.900.070 "This code" defined.
- 28A.900.080 Effective date—1969 ex.s. c 223.
- 28A.900.100 Purpose—1990 c 33.
- 28A.900.101 Statutory references—1990 c 33.
- 28A.900.102 Severability—1990 c 33.
- 28A.900.103 Subheadings not law—1990 c 33.

**28A.900.010 Repeals and savings.** See 1969 ex.s. c 223 § 28A.98.010. Formerly RCW 28A.98.010.

**28A.900.030 Continuation of existing law.** The provisions of this title, Title 28A RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: PROVIDED, That this 1969 act shall not operate to terminate, extend or otherwise affect any appropriation for the biennium

commencing July 1, 1967, and ending June 30, 1969. [1969 ex.s. c 223 § 28A.98.030. Formerly RCW 28A.98.030.]

**28A.900.040 Provisions to be construed in pari materia.** The provisions of this title, Title 28A RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28B RCW, and with other laws relating to education. This section shall not operate retroactively. [1969 ex.s. c 223 § 28A.98.040. Formerly RCW 28A.98.040.]

**28A.900.050 Title, chapter, section headings not part of law.** Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28A RCW, do not constitute any part of the law. [1969 ex.s. c 223 § 28A.98.050. Formerly RCW 28A.98.050.]

**28A.900.060 Invalidity of part of title not to affect remainder.** If any provision of this title, Title 28A RCW, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 223 § 28A.98.060. Formerly RCW 28A.98.060.]

**28A.900.070 "This code" defined.** As used in this title, Title 28A RCW, "this code" means Titles 28A and 28B RCW. [1969 ex.s. c 223 § 28A.98.070. Formerly RCW 28A.98.070.]

**28A.900.080 Effective date—1969 ex.s. c 223.** Title 28A RCW shall be effective July 1, 1970. [1969 ex.s. c 223 § 28A.98.080. Formerly RCW 28A.98.080.]

**28A.900.100 Purpose—1990 c 33.** (1) The purpose of \*this act is to reorganize Title 28A RCW. There are three goals to this reorganization: (a) To place related sections in chapters organized by subject matter; (b) to make all terms gender neutral; and (c) to clarify existing language. \*This act is technical in nature and is not intended to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of Title 28A RCW or other statutory provisions included in \*this act and rules adopted under those provisions.

(2) \*This act shall not have the effect of terminating or in any way modifying any proceedings or liability, civil or criminal, which exists on June 7, 1990. [1990 c 33 § 1.]

\*Reviser's note: For codification of "this act," see Codification Tables, Supplement Volume 9A.

**28A.900.101 Statutory references—1990 c 33.** (1) The code reviser shall correct all statutory references to code sections recodified by \*section 4 of this act.

(2)(a) References to "RCW 28A.47.732 through 28A.47.748" in Title 28A RCW have intentionally not been changed since those code sections were repealed by

chapter 189, Laws of 1983. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

(b) References to "RCW 28A.58.095" in Title 28A RCW have intentionally not been changed since that code section was repealed by chapter 2, Laws of 1987 1st ex. sess. These references are not being eliminated because it is not the purpose of this act to correct obsolete references. [1990 c 33 § 2.]

\*Reviser's note: Section 4 of this act is an uncodified section that recodifies sections in Title 28A RCW.

**28A.900.102 Severability—1990 c 33.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 33 § 603.]

**28A.900.103 Subheadings not law—1990 c 33.** Subheadings as used in this act do not constitute any part of the law. [1990 c 33 § 3.]

## Title 28B HIGHER EDUCATION

### Chapters

- 28B.10** Colleges and universities generally.
- 28B.14C** 1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education.
- 28B.14D** 1979 Bond issue for capital improvements for institutions of higher education.
- 28B.15** College and university fees.
- 28B.16** State higher education personnel law.
- 28B.20** University of Washington.
- 28B.25** Joint center for higher education.
- 28B.30** Washington State University.
- 28B.31** 1977 Washington State University buildings and facilities financing act.
- 28B.35** Regional universities.
- 28B.40** The Evergreen State College.
- 28B.45** Branch campuses.
- 28B.50** Community and technical colleges.
- 28B.52** Collective bargaining—Academic personnel in community colleges.
- 28B.56** 1972 Community colleges facilities aid—Bond issue.
- 28B.57** 1975 Community college special capital projects bond act.
- 28B.80** Higher education coordinating board.
- 28B.101** Educational opportunity grant program—Placebound students.
- 28B.102** Future teachers conditional scholarship program.
- 28B.104** Nurses conditional scholarship program.
- 28B.107** Pacific Rim language scholarship program.
- 28B.108** American Indian endowed scholarship program.
- 28B.115** Health professional conditional scholarship program.

**28B.120 Washington fund for excellence in higher education program.****28B.125 Health personnel resources.****Chapter 28B.10****COLLEGES AND UNIVERSITIES GENERALLY**

## Sections

- 28B.10.016 "State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined.
- 28B.10.017 "Eligible student" defined.
- 28B.10.025 Purchases of works of art—Procedure.
- 28B.10.060 Spokane intercollegiate research and technology institute.
- 28B.10.569 Crime statistics reporting—Safety information provided—Task forces on campus security and safety.
- 28B.10.808 State student financial aid program—Commission, procedure for awarding grants.
- 28B.10.8081 Persian Gulf veterans—Limited application of RCW 28B.10.808.
- 28B.10.821 State educational grant account—Deposits—Use.
- 28B.10.851 Capital improvements, bonds for—Account created, purpose.
- 28B.10.868 Distinguished professorship trust fund program—Trust fund established.
- 28B.10.882 Graduate fellowship trust fund—Matching funds.

**28B.10.016 "State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined.** For the purposes of this title:

(1) "State universities" means the University of Washington and Washington State University.

(2) "Regional universities" means Western Washington University at Bellingham, Central Washington University at Ellensburg, and Eastern Washington University at Cheney.

(3) "State college" means The Evergreen State College in Thurston county.

(4) "Institutions of higher education" or "postsecondary institutions" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges. [1991 c 238 § 113; 1977 ex.s. c 169 § 1.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Tenure or terms, rights, including property rights, not affected—1977 ex.s. c 169:** "Nothing in this 1977 amendatory act shall affect the tenure of or the terms of any officials, administrative assistants, faculty members, or other employees of any institution of higher education within this state, whether such institutions have hereinabove in this 1977 amendatory act been redesignated as regional universities or otherwise. Nothing in this 1977 amendatory act shall affect any rights, whether to property or otherwise, existing on or after the effective date of this 1977 amendatory act, the intent of the legislature being solely to redesignate as regional universities certain institutions of higher education within this state." [1977 ex.s. c 169 § 113.]

**Statute and RCW designations affected—1977 ex.s. c 169:** "It is the intent of the legislature that after the effective date of this 1977 amendatory act, where the names "Western Washington State College", "Central Washington State College", or "Eastern Washington State College" are used in any bill enacted by the legislature or found within the Revised Code of Washington, they shall mean "Western Washington University", "Central Washington University", and "Eastern Washington University", respectively." [1977 ex.s. c 169 § 114.]

**Severability—1977 ex.s. c 169:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 169 § 116.]

**28B.10.017 "Eligible student" defined.** "Eligible student" means a student who (1) was enrolled in a Washington college, university, community college, or vocational-technical institute on or after August 2, 1990, and (2) is unable to complete the period of enrollment or academic term in which the student was enrolled because the student was deployed either in the Persian Gulf combat zone, as designated by the president of the United States by executive order, or in another location in support of the Persian Gulf combat zone. An eligible student is required to verify his or her inability to complete an academic term through military service records, movement orders, or a certified letter signed by the student's installation personnel officer. [1991 c 164 § 1.]

**28B.10.025 Purchases of works of art—Procedure.** The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the regional universities, The Evergreen State College, and the community college districts, determine the amount to be made available for the purchases of art under RCW 28B.10.027, and payment therefor shall be made in accordance with law. The designation of projects and sites, the selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28A.335.210, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 557; 1983 c 204 § 8; 1977 ex.s. c 169 § 8; 1974 ex.s. c 176 § 4.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1983 c 204:** See note following RCW 43.46.090.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**Acquisition of works of art for public buildings and lands—Visual arts program established:** RCW 43.46.090.

**Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions:** RCW 43.17.200.

**Purchase of works of art—Interagency reimbursement for expenditure by visual arts program:** RCW 43.17.205.

**State art collection:** RCW 43.46.095.

**28B.10.060 Spokane intercollegiate research and technology institute.** (1) The Spokane intercollegiate research and technology institute is hereby created.

(2) The institute shall be operated and administered as a multi-institutional education and research center,

housing appropriate programs conducted in Spokane under the authority of Washington State University, Eastern Washington University, and the community colleges of Spokane. Gonzaga University and Whitworth College may participate as full partners in any academic and research activities of the institute.

(3) The institute shall house education and research programs specifically designed to meet the needs of the greater Spokane area.

(4) The coordination of programs and activities at the institute shall be subject to the authority of the joint center for higher education under RCW 28B.25.020. The institute shall be administered by the joint center.

(5) The establishment of any education or research programs at the institute and the lease, purchase, or construction of any site or facility for the institute shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340.

(6) All cabinets, furniture, office equipment, other tangible property acquired by Washington State University for the institute, all funds, credits, or other assets held by Washington State University for the institute shall be assigned to the joint center for higher education. [1991 c 205 § 1; 1989 1st ex.s. c 7 § 10.]

**Effective date**—1991 c 205: See RCW 28B.25.900.

**Legislative findings**—1989 1st ex.s. c 7: See RCW 28B.45.010.

**28B.10.569 Crime statistics reporting—Safety information provided—Task forces on campus security and safety.** (1) Each institution of higher education with a commissioned police force shall report to the Washington association of sheriffs and police chiefs or its successor agency, on a monthly basis, crime statistics for the Washington state uniform crime report, in the format required by the Washington association of sheriffs and police chiefs, or its successor agency. Institutions of higher education which do not have commissioned police forces shall report crime statistics through appropriate local law enforcement agencies.

(2) Each institution of higher education shall publish and distribute a report which shall be updated annually and which shall include the crime statistics as reported under subsection (1) of this section for the most recent three-year period. Upon request, the institution shall provide the report to every person who submits an application for admission to either a main or branch campus, and to each new employee at the time of employment. In its acknowledgement of receipt of the formal application for admission, the institution shall notify the applicant of the availability of such information. The information also shall be provided on an annual basis to all students and employees. Institutions with more than one campus shall provide the required information on a campus-by-campus basis.

(3) Each institution of higher education shall provide to every new student and new employee, and upon request to other interested persons, information which follows the general categories for safety policies and procedures outlined in this section. Such categories shall, at a minimum, include campus enrollments, campus nonstudent work force profile, the number and duties of

campus security personnel, arrangements with state and local police, and policies on controlled substances. Information for the most recent academic year also shall include a description of any programs offered by an institution's student affairs or services department, and by student government organizations regarding crime prevention and counseling, including a directory of available services and appropriate telephone numbers and physical locations of these services. In addition, institutions maintaining student housing facilities shall include information detailing security policies and programs.

Institutions with a main campus and one or more branch campuses shall provide the information on a campus-by-campus basis.

In the case of community colleges, colleges shall provide such information to the main campuses only and shall provide reasonable alternative information at any off-campus centers and other affiliated college sites enrolling less than one hundred students.

(4) Each institution shall establish a task force which shall annually examine campus security and safety issues. The task force shall review the report published and distributed pursuant to this section in order to ensure the accuracy and effectiveness of the report, and make any suggestions for improvement. This task force shall include representation from the institution's administration, faculty, staff, recognized student organization, and police or security organization. [1990 c 288 § 7.]

**28B.10.808 State student financial aid program—Commission, procedure for awarding grants.** In awarding grants, the commission shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the commission, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The commission shall annually select the financial aid award winners from among Washington residents applying for student financial aid who have been ranked according to financial need as determined by the amount of the family contribution and other considerations brought to the commission's attention.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until dispersed.

(3) A grant may be renewed until the course of study is completed, but not for more than an additional four academic years beyond the first year of the award. These shall not be required to be consecutive years. Qualifications for renewal will include maintaining satisfactory academic standing toward completion of the course of study, and continued eligibility as determined by the commission. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according

to the institution's own policy for issuing refunds, except as provided in RCW 28B.10.8081.

(4) In computing financial need the commission shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. [1991 c 164 § 4; 1989 c 254 § 4; 1969 ex.s. c 222 § 12. Formerly RCW 28.76.470.]

**Intent**—1989 c 254: See note following RCW 28B.10.802.

**28B.10.8081 Persian Gulf veterans—Limited application of RCW 28B.10.808.** Under rules adopted by the board, the provisions of RCW 28B.10.808(3) shall not apply to eligible students, as defined in RCW 28B.10.017, and eligible students shall not be required to repay the unused portions of grants received under the state student financial aid program. [1991 c 164 § 3.]

**28B.10.821 State educational grant account—Deposits—Use.** The state educational grant account is hereby established in the state treasury. The commission shall deposit refunds and recoveries of student financial aid funds expended in prior biennia in such account. Expenditures from such account shall be for financial aid to needy or disadvantaged students. [1991 1st sp.s. c 13 § 12; 1985 c 57 § 10; 1981 c 55 § 1.]

**Effective dates—Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Effective date**—1985 c 57: See note following RCW 18.04.105.

**28B.10.851 Capital improvements, bonds for—Account created, purpose.** The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state treasury. [1991 1st sp.s. c 13 § 45; 1985 c 57 § 11; 1973 1st ex.s. c 135 § 2.]

**Effective dates—Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Effective date**—1985 c 57: See note following RCW 18.04.105.

**Severability**—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

**28B.10.868 Distinguished professorship trust fund program—Trust fund established.** Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.10.870, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. [1991 1st sp.s. c 13 § 99; 1987 c 8 § 3.]

**Effective dates—Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

[1990–91 RCW Supp—page 640]

**28B.10.882 Graduate fellowship trust fund—Matching funds.** Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.10.884, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. [1991 1st sp.s. c 13 § 88; 1987 c 147 § 3.]

**Effective dates—Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

## Chapter 28B.14C

### 1977 BOND ACT FOR THE REFUNDING OF OUTSTANDING LIMITED OBLIGATION REVENUE BONDS OF INSTITUTIONS OF HIGHER EDUCATION

#### Sections

28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977—Created—Use.

**28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977—Created—Use.** There is hereby created in the state treasury the institutions of higher education refunding bond retirement fund of 1977, which fund shall be devoted to the payment of principal of, interest on and redemption premium, if any, on the bonds authorized to be issued pursuant to this chapter.

The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the next succeeding twelve months to pay the installments of principal of and interest on the refunding bonds coming due in such period. The state treasurer shall, not less than thirty days prior to the due date of each installment, withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee as being required to pay such installment; shall deposit such amount in the institutions of higher education refunding bond retirement fund of 1977; and shall apply in a timely manner the funds so deposited to the payment of the installment due on the bonds. [1991 1st sp.s. c 13 § 80; 1977 ex.s. c 354 § 6.]

**Effective dates—Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

## Chapter 28B.14D

### 1979 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

#### Sections

28B.14D.040 Disposition of proceeds from sale of bonds and notes—Higher education construction account.  
28B.14D.900 Construction—Provisions as subordinate in nature.

**28B.14D.040 Disposition of proceeds from sale of bonds and notes—Higher education construction account.** The proceeds from the sale of the bonds authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account hereby created in the state treasury. [1991 1st sp.s. c 13 § 8; 1985 c 57 § 13; 1979 ex.s. c 253 § 4.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**28B.14D.900 Construction—Provisions as subordinate in nature.** No provision of this chapter or chapter 43.99 RCW, or of RCW 28B.20.750 through 28B.20.758 shall be deemed to repeal, override, or limit any provision of RCW 28B.10.300 through 28B.10.335, 28B.15.210, 28B.15.310, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues mentioned within such statutes. The obligation of such boards to make the transfers provided for in RCW 28B.14D.070, 28B.14C.080(2), 28B.14C.090(2), 28B.14C.100(2), 28B.14C.110(2), 28B.14C.120(2), 28B.14C.130(2), 28B.14G.060, 28B.20.757, 43.99G.070, and 43.99H.060 (1) and (4), and in any similar law heretofore or hereafter enacted shall be subject and subordinate to the lien and charge of any revenue bonds heretofore or hereafter issued by such boards on the building fees and/or other revenues pledged to secure such revenue bonds, and on the moneys in the building account or capital project account and the individual institutions of higher education bond retirement funds. [1991 1st sp.s. c 31 § 9; 1985 c 390 § 9; 1979 ex.s. c 253 § 10.]

**Severability—1991 1st sp.s. c 31:** See RCW 43.991.900.

## Chapter 28B.15

### COLLEGE AND UNIVERSITY FEES

#### Sections

28B.15.045	Services and activities fees—Guidelines governing establishment and funding of programs supported by—Scope—Mandatory provisions—Dispute resolution.
28B.15.067	Tuition fees—Established and adjusted annually.
28B.15.380	Exemption from payment of fees at state universities.
28B.15.502	Tuition and fees—Community colleges—Services and activities fees, maximum—Fees for summer school and certain courses.
28B.15.515	Community colleges—State-funded enrollment levels—Summer school—Variances—Excess enrollments.
28B.15.520	Community colleges—Waiver of fees and residency requirements—Purposes.

28B.15.543	Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications.
28B.15.547	Repealed.
28B.15.558	Waiver of tuition and fees for state employees.
28B.15.600	Refunds or cancellation of fees.
28B.15.623	Persian Gulf veterans—Reenrollment options at state institutions of higher education—Expiration of section.
28B.15.625	Persian Gulf veterans—Private higher education institutions—Tuition refund encouraged.
28B.15.628	Persian Gulf veterans exempted from tuition and fees increases at public institutions of higher education—Expiration of section.
28B.15.790	Effective communication—Intent.
28B.15.792	Effective communication—Principles.
28B.15.794	Effective communication—Implementation of principles.
28B.15.796	Effective communication—Task force to improve communication and teaching skills of faculty and teaching assistants.

**28B.15.045 Services and activities fees—Guidelines governing establishment and funding of programs supported by—Scope—Mandatory provisions—Dispute resolution.** The legislature recognizes that institutional governing boards have a responsibility to manage and protect institutions of higher education. This responsibility includes ensuring certain lawful agreements for which revenues from services and activities fees have been pledged. Such lawful agreements include, but are not limited to, bond covenant agreements and other contractual obligations. Institutional governing boards are also expected to protect the stability of programs that benefit students.

The legislature also recognizes that services and activities fees are paid by students for the express purpose of funding student services and programs. It is the intent of the legislature that governing boards ensure that students have a strong voice in recommending budgets for services and activities fees. The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall stipulate procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:

(1) Student representatives from the services and activities fee committee and representatives of the college or university administration shall have an opportunity to address the board before board decisions on services and activities fee budgets and dispute resolution actions are made;

(2) Members of the governing boards shall adhere to the principle that services and activities fee committee desires be given priority consideration on funding items that do not fall into the categories of preexisting contractual obligations, bond covenant agreements, or stability for programs affecting students;

(3) Responsibility for proposing to the administration and the governing board program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a services and activities fee committee, on which students shall hold at least a majority of the voting memberships,

such student members shall represent diverse student interests, and shall be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard at a public meeting during its consideration of the funding of student programs and activities.

(4) The services and activities fee committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees with supporting documents simultaneously to the college or university governing board and administration.

(5) The college or university administration shall review the services and activities fee committee budget recommendations and publish a written response to the services and activities fee committee. This response shall outline potential areas of difference between the committee recommendations and the administration's proposed budget recommendations. This response, with supporting documentation, shall be submitted to the services and activities fee committee in a timely manner to allow adequate consideration.

(6)(a) In the event of a dispute or disputes involving the services and activities fee committee recommendations, the college or university administration shall meet with the services and activities fee committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the governing board.

(b) If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the services and activities fee committee within fourteen days.

(7) The dispute resolution committee shall be selected as follows: The college or university administration shall appoint two nonvoting advisory members; the governing board shall appoint three voting members; and the services and activities fee committee chair shall appoint three student members of the services and activities fee committee who will have a vote, and one student representing the services and activities fee committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.

(8) The governing board may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the board. The governing board shall consider the results, if any, of the dispute resolution committee and shall take action.

(9) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.

(10) Services and activities fees and revenues generated by programs and activities funded by such fees

shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.

(11) All information pertaining to services and activities fees budgets shall be made available to interested parties.

(12) With the exception of any funds needed for bond covenant obligations, once the budget for expending service and activities fees is approved by the governing board, funds shall not be shifted from funds budgeted for associated students or departmentally related categories or the reserve fund until the administration provides written justification to the services and activities fee committee and the governing board, or the governing board gives its express approval. In the event of a fund transfer dispute among the services and activities fee committee, the administration, or the governing board, said dispute shall be resolved pursuant to subsections (6)(b), (7), and (8) of this section.

(13) Any service and activities fees collected which exceed initially budgeted amounts are subject to subsections (1) through (10) and (12) of this section. [1990 c 7 § 1; 1986 c 91 § 2; 1980 c 80 § 2.]

**Severability**—1980 c 80: See note following RCW 28B.15.044.

**28B.15.067 Tuition fees—Established and adjusted annually.** (1) Tuition fees shall be established and adjusted annually under the provisions of this chapter beginning with the 1987–88 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. Tuition fees shall reflect the undergraduate and graduate educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts prescribed in this chapter. The change from the biennial tuition fee adjustment to an annual tuition fee adjustment shall not reduce the amount of revenue to the state general fund.

(2) The tuition fees established under this section shall not apply to high school students enrolling in community colleges under RCW 28A.600.300 through 28A.600.395. [1990 1st ex.s. c 9 § 413; 1986 c 42 § 1; 1985 c 390 § 15; 1982 1st ex.s. c 37 § 15; 1981 c 257 § 2.]

**Finding—Severability**—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

**Effective date—Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

**Severability**—1981 c 257: See note following RCW 28B.15.031.

**28B.15.380 Exemption from payment of fees at state universities.** In addition to any other exemptions as may be provided by law, the board of regents at the state universities may exempt the following classes of persons from the payment of tuition fees or services and activities fees except for individual instruction fees: (1) All veterans as defined in RCW 41.04.005: PROVIDED, That such persons are no longer entitled to federal vocational or educational benefits conferred by virtue of their

military service: AND PROVIDED FURTHER, That if any such veterans have not resided in this state for one year prior to registration said board may exempt them up to one-half of the tuition payable by other nonresident students: AND, PROVIDED FURTHER, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in universities on or before October 1, 1977. (2) Children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state university within ten years of their graduation from high school. [1990 c 154 § 1; 1985 c 390 § 23; 1979 c 82 § 1; 1977 ex.s. c 322 § 10; 1977 ex.s. c 169 § 37; 1973 1st ex.s. c 191 § 1; 1971 ex.s. c 279 § 8; 1969 ex.s. c 269 § 8; 1969 ex.s. c 223 § 28B.15.380. Prior: (i) 1947 c 46 § 1; 1921 c 139 § 5; Rem. Supp. 1947 § 4550. Formerly RCW 28-.77.070. (ii) 1921 c 164 § 4, part; RRS § 4572, part. Formerly RCW 28.80.060, part.]

**Severability**—1979 c 82: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 82 § 3.]

**Severability**—1977 ex.s. c 322: See note following RCW 28B.15.065.

**Severability**—**Nomenclature**—**Savings**—1977 ex.s. c 169: See notes following RCW 28B.10.016.

**Effective date**—1973 1st ex.s. c 191: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 191 § 4.]

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

**28B.15.502 Tuition and fees—Community colleges—Services and activities fees, maximum—Fees for summer school and certain courses.** Tuition fees and services and activities fees at each community college other than at summer quarters shall be as follows:

(1) For full time resident students, the total tuition fees shall be twenty-three percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty-seven dollars and fifty cents.

(2) For full time nonresident students, the total tuition fees shall be one hundred percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be four hundred and three dollars and fifty cents.

(3) The boards of trustees of each of the state community colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) and (2) hereof a services and activities fee which for each year of the 1981-83 biennium shall not exceed sixty-four dollars

and fifty cents. In subsequent biennia the board of trustees may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition fees authorized in subsection (1) above: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(4) Tuition and services and activities fees consistent with the above schedule will be fixed by the state board for community colleges for summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

The board of trustees shall charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting short courses as it, in its discretion, may determine, not inconsistent with the rules and regulations of the \*state board for community college education. [1991 c 353 § 2; 1985 c 390 § 25; 1982 1st ex.s. c 37 § 10; 1981 c 257 § 8.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Effective date**—1991 c 353: See note following RCW 28B.15.515.

**Effective date**—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

**Severability**—1981 c 257: See note following RCW 28B.15.031.

**28B.15.515 Community colleges—State-funded enrollment levels—Summer school—Variances—Excess enrollments.** (1) The boards of trustees of the community college districts may operate summer schools on either a self-supporting or a state-funded basis.

If summer school is operated on a self-supporting basis, the fees charged shall be retained by the colleges, and shall be sufficient to cover the direct costs, which are instructional salaries and related benefits, supplies, publications, and records.

Community colleges that have self-supporting summer schools shall continue to receive general fund state support for vocational programs that require that students enroll in a four quarter sequence of courses that includes summer quarter due to clinical or laboratory requirements and for ungraded courses limited to adult basic education, vocational apprenticeship, aging and retirement, small business management, industrial first aid, and parent education.

(2)(a) The board of trustees of a community college district may permit the district's state-funded, full-time equivalent enrollment level, as provided in the operating budget appropriations act, to vary by plus or minus two percent each fiscal year unless otherwise authorized in the operating budget appropriations act. If the variance is above the state-funded level, the district may charge those students above the state-funded level a fee equivalent to the amount of tuition and fees that are charged students enrolled in state-funded courses. These fees shall be retained by the colleges.

(b) Any community college that in 1990–91 has an enrollment above the state-funded level but below the authorized variance may increase its excess enrollments to within the variance.

(c) Community colleges that currently have excess enrollments more than the authorized variance, by means of enrollments that would have otherwise been eligible for state funding, shall reduce those excess enrollments to within the authorized variance by September 1, 1995, in at least equal annual reductions, commencing with the 1991–92 fiscal year.

(d) Except as permitted by (c) of this subsection, should the number of student-supported, full-time equivalent enrollments in any fiscal year fall outside the authorized variance, the college shall return by September 1st to the state general fund, an amount equal to the college's full average state appropriations per full-time equivalent student for such student-funded full-time equivalent outside the variance, unless otherwise provided in the operating budget appropriations act.

(3) The \*state board for community college education shall ensure compliance with this section. [1991 c 353 § 1.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Effective date—1991 c 353:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 15, 1991." [1991 c 353 § 3.]

**28B.15.520 Community colleges—Waiver of fees and residency requirements—Purposes.** Notwithstanding any other provision of this chapter or chapter 28B.50 RCW as now or hereafter amended:

(1) Boards of trustees of the various community colleges shall waive tuition fees and services and activities fees for students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate;

(2) The various community college boards may waive the tuition and services and activities fees for children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a community college within ten years of their graduation from high school;

(3) Boards of trustees of the various community colleges may waive residency requirements for students enrolled in that community college in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(4) Boards of trustees of the various community colleges may waive the nonresident portion of tuition and fees for up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program. [1990 c 154 § 2; 1987 c 390 § 1. Prior: 1985 c 390 § 26; 1985 c 198 § 1; 1982 1st ex.s. c 37 § 8; 1979 ex.s. c 148 § 1; 1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Effective date—1973 1st ex.s. c 191:** See note following RCW 28B.15.380.

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**Severability—1970 ex.s. c 59:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 59 § 11.] For codification of 1970 ex.s. c 59, see Codification Tables, Volume 0.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

*Certificate of educational competence:* RCW 28A.305.190.

*"Totally disabled" defined for certain purposes:* RCW 28B.15.385.

**28B.15.543 Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications.**

The boards of regents and trustees of the regional universities, state universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for waivers for a maximum of twelve quarters or eight semesters and may transfer among state institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards. [1990 c 33 § 558; 1987 c 465 § 2. Prior: 1985 c 390 § 30; 1985 c 370 § 68; 1985 c 341 § 16; 1984 c 278 § 17.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Application—1987 c 465 § 2:** "The amendments to RCW 28B.15.543 by section 2, chapter 465, Laws of 1987 shall apply to persons holding the Washington scholars award as of July 26, 1987, as well as persons holding the award after July 26, 1987." [1987 c 465 § 3.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**28B.15.547 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.15.558 Waiver of tuition and fees for state employees.** (1) The governing boards of state institutions of higher education as defined in RCW 28B.10.016 may waive the tuition and services and activities fees for state employees as defined under subsection (2) of this section pursuant to the following conditions:

(a) Such state employees shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on state employees registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such state employees be considered in any enrollment statistics which would affect budgetary determinations; and

(c) State employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means permanent full-time employees in classified service under chapters 28B.16 and 41.06 RCW. [1990 c 88 § 1.]

**28B.15.600 Refunds or cancellation of fees.** The boards of regents of the state's universities and the boards of trustees of the regional universities and The Evergreen State College and community colleges may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which said fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, said boards of regents and trustees may refund or cancel up to one-half of said fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. The regents or trustees of the respective universities and colleges may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter or semester. Said boards of regents and trustees may adopt rules to comply with RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States.

Said boards of regents and trustees may refund other fees pursuant to such rules as they may prescribe. [1991 c 164 § 5; 1985 c 390 § 32; 1983 c 256 § 1; 1977 ex.s. c 169 § 40; 1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**Severability—1973 1st ex.s. c 46:** See note following RCW 28B.10.704.

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**28B.15.623 Persian Gulf veterans—Reenrollment options at state institutions of higher education—Expiration of section.** Institutions of higher education, as

defined in RCW 28B.10.016, and state funded \*vocational-technical institutes shall provide eligible students as defined in RCW 28B.10.017 with two options. At the option of the eligible student, the institution shall either refund the total tuition and fees paid by the eligible student for the applicable academic term, or shall readmit the eligible student for one academic term under the following conditions:

(1) The eligible student shall be exempt from the payment of additional tuition and fees;

(2) No new course sections shall be created as a direct result of students receiving the waivers;

(3) Enrollment information on students receiving the waivers shall be maintained separately from other enrollment information and shall not be considered in any enrollment statistics that would affect budgetary determinations; and

(4) Institutions may apply to the legislature for a supplemental appropriation to cover the cost of serving any student who elects to exercise a reenrollment option under this section. [1991 c 164 § 2.]

**\*Reviser's note:** "Vocational-technical institutes" designated "technical colleges" by 1991 c 238. See RCW 28B.50.030.

**Expiration date—1991 c 164 § 2:** "Section 2 of this act shall expire June 30, 1995." [1991 c 164 § 11.]

**28B.15.625 Persian Gulf veterans—Private higher education institutions—Tuition refund encouraged.** Private vocational schools and private higher education institutions are encouraged to provide students deployed either to the Persian Gulf combat zone, as designated by the president of the United States through executive order, or in another location in support of the Persian Gulf combat zone, with the choice of tuition refunds or one free term, as provided under RCW 28B.10.017 and 28B.15.623 for public higher education institutions. [1991 c 164 § 10.]

**28B.15.628 Persian Gulf veterans exempted from tuition and fees increases at public institutions of higher education—Expiration of section.** A veteran of the Persian Gulf combat zone shall be exempted from increases in tuition and fees at any public institution of higher education that occur during and after their period of service, and shall not be required to pay more than the total amount of tuition and fees established for the 1990-91 academic year, if the veteran could have qualified as a Washington resident student under RCW 28B.15.012(2), had he or she been enrolled as a student on August 1, 1990, and if the veteran's adjusted gross family income as most recently reported to the internal revenue service does not exceed Washington state's median family income as established by the federal bureau of the census. For the purposes of this section, "a veteran of the Persian Gulf combat zone" means a person who during any portion of calendar year 1991 served in active federal service as a member of the armed military or naval forces of the United States in a combat zone as designated by the president of the United States by executive order. [1991 c 228 § 14.]

**Intent—1991 c 228:** "It is the intent of the legislature to enable Washington residents who have actively served in the Persian Gulf combat zone to attend any Washington institution of higher education at 1990 tuition rates." [1991 c 228 § 13.]

**Expiration date—1991 c 228 §§ 13, 14:** "Sections 13 and 14 of this act shall expire on June 30, 1994." [1991 c 228 § 15.]

**28B.15.790 Effective communication—Intent.** The legislature finds that the quality of undergraduate education is enhanced by association with graduate assistants from other countries who can effectively communicate their knowledge and diverse cultural backgrounds.

It is the intent of the legislature to assist the institutions in their effort to improve the quality of undergraduate education at the state's four-year colleges and universities. Attainment of an excellent education is facilitated when communication is clear, concise, sensitive to cultural differences, and demonstrative of proven pedagogical skills. It is the further intent of the legislature to assure students and parents that graduate teaching assistants at our state institutions of higher education are able to communicate effectively and understandably with undergraduate students. [1991 c 228 § 1.]

**28B.15.792 Effective communication—Principles.** The Washington state legislature affirms the following principles:

(1) Washington's college and university students are entitled to excellent instruction at the state's institutions of higher education. Excellent education requires the ability to communicate effectively in college classrooms and laboratories.

(2) The presence of students, faculty, and staff from other countries on Washington's college campuses enriches the educational experience of Washington's students and enhances scholarship and research at the state's colleges and universities.

(3) With the exception of courses designed to be taught primarily in a foreign language, undergraduate students shall be provided with classroom instruction, laboratory instruction, clinics, seminars, studios, and other participatory and activity courses by a person fluent in both the spoken and written English language.

(4) Persons of all nationalities, races, religions, and ethnic backgrounds are welcome and valued in the state of Washington. [1991 c 228 § 2.]

**28B.15.794 Effective communication—Implementation of principles.** The governing board of each state university, regional university, state college, and community college shall ensure that the principles in \*section 1 of this act are implemented at its institution of higher education. [1991 c 228 § 3.]

\*Reviser's note: A translation of "section 1 of this act" is RCW 28B.15.790. RCW 28B.15.792 was apparently intended.

**28B.15.796 Effective communication—Task force to improve communication and teaching skills of faculty and teaching assistants.** The council of presidents, in

consultation with the higher education coordinating board, shall convene a task force of representatives from the four-year universities and colleges. The task force shall:

(1) Review institutional policies and procedures designed to ensure that faculty and teaching assistants are able to communicate effectively with undergraduate students in classrooms and laboratories;

(2) Research methods and procedures designed to improve the communication and teaching skills of any person funded by state money who instructs undergraduate students in classrooms and laboratories;

(3) Share the results of that research with each participating university and college; and

(4) Work with each participating university and college to assist the institution in its efforts to improve the communication and pedagogical skills of faculty and teaching assistants instructing undergraduate students. [1991 c 228 § 4.]

## Chapter 28B.16

### STATE HIGHER EDUCATION PERSONNEL LAW

#### Sections

28B.16.040	Exempted personnel—Right of reversion to civil service status.
28B.16.043	Exempted personnel—Seattle Vocational Institute employees.
28B.16.100	Rules—Scope.
28B.16.300	Employee return-to-work program.

**28B.16.040 Exempted personnel—Right of reversion to civil service status.** The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education

personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: **PROVIDED**, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1990 c 60 § 201; 1982 1st ex.s. c 53 § 15; 1977 ex.s. c 94 § 1; 1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.]

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**28B.16.043 Exempted personnel—Seattle Vocational Institute employees.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 107.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.16.100 Rules—Scope.** The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;
- (2) Certification of names for vacancies, including promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: **PROVIDED**, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;
- (3) Examination for all positions in the competitive and noncompetitive service;
- (4) Appointments;
- (5) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class;
- (6) Transfers;
- (7) Sick leaves and vacations;
- (8) Hours of work;
- (9) Layoffs when necessary and subsequent reemployment, both according to seniority;
- (10) Determination of appropriate bargaining units within any institution or related boards: **PROVIDED**,

That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(11) Certification and decertification of exclusive bargaining representatives: **PROVIDED**, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such condition of employment constitutes cause for dismissal: **PROVIDED FURTHER**, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: **PROVIDED FURTHER**, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: **AND PROVIDED FURTHER**, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(12) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion;

(13) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the institution and the employee organization: **PROVIDED**, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(14) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of salary schedules and compensation plans which reflect the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 28B.16.116 and which shall be competitive in the state or the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of financial management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the state board for community college education for the various community colleges;

(17) Training programs including in-service, promotional, and supervisory;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Assuring that persons who are or have been employed in classified positions under chapter 41.06 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter; and

(21) Assuring that any person who is or has been employed in a classified position under this chapter will be

eligible for employment, reemployment, transfer, and promotion in respect to classified positions at any other institution of higher education or related board.

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules consistent with federal guidelines pertaining to affirmative action. The board shall transmit a report annually to the human rights commission which states the progress each institution of higher education has made in meeting affirmative action goals and timetables. [1990 c 60 § 202. Prior: 1985 c 461 § 9; 1985 c 365 § 1; 1983 1st ex.s. c 75 § 2; 1982 1st ex.s. c 53 § 16; 1979 c 151 § 15; 1977 ex.s. c 152 § 8; 1975 1st ex.s. c 122 § 1; 1973 1st ex.s. c 75 § 2; 1973 c 154 § 2; 1971 ex.s. c 19 § 1; 1969 ex.s. c 36 § 10. Formerly RCW 28.75.100. Former part of section, see RCW 28B.16.101.]

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**Severability—1985 c 461:** See note following RCW 41.06.020.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Severability—1977 ex.s. c 152:** See note following RCW 41.06.150.

**Severability—1975 1st ex.s. c 122:** "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 122 § 3.]

**Effective date—1973 1st ex.s. c 75:** See note following RCW 41.06.150.

*Positions under college work-study program to be identified as to job classification: RCW 28B.12.060.*

**28B.16.300 Employee return-to-work program.** (1) In addition to the rules adopted under RCW 28B.16.100, the board shall adopt rules establishing an employee return-to-work program. The program shall, at a minimum:

(a) Direct each institution of higher education to adopt a return-to-work policy. The program shall allow each institution program to take into consideration the special nature of employment in the institution;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work state-wide when appropriate job classifications are not available in the institution of higher education that is the appointing authority at the time of injury;

(d) Require each institution of higher education to name a representative responsible for coordinating the return-to-work program of the institution;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary. [1990 c 204 § 4.]

**Findings—Purpose—1990 c 204:** See note following RCW 51.44.170.

### Chapter 28B.20

#### UNIVERSITY OF WASHINGTON

##### Sections

28B.20.253	Liability coverage of university personnel and students—Self-insurance revolving fund—Created, contents, use.
28B.20.426	Fellowship program in forensic pathology—Funding—Recipient's services to county coroners.
28B.20.462	Warren G. Magnuson institute for biomedical research and health professions training—Established.
28B.20.464	Warren G. Magnuson institute—Purposes.
28B.20.466	Warren G. Magnuson institute—Endowment fund earnings.
28B.20.468	Warren G. Magnuson institute—Trust fund.
28B.20.470	Warren G. Magnuson institute—State matching funds.
28B.20.472	Warren G. Magnuson institute—Local endowment fund.
28B.20.500	Medical students from rural areas—Admission preference.
28B.20.800	Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant.
28B.20.810	Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Transfers of certain funds and investments from university permanent fund to University of Washington bond retirement fund and University of Washington building account.

**28B.20.253 Liability coverage of university personnel and students—Self-insurance revolving fund—Created, contents, use.** (1) A self-insurance revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively by the board of regents of the University of Washington for the following purposes:

(a) The payment of judgments against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250.

(b) The payment of claims against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has

been provided pursuant to RCW 28B.20.250: PROVIDED, That payment of claims in excess of twenty-five hundred dollars must be approved by the state attorney general.

(c) For the cost of investigation, administration, and defense of actions, claims, or proceedings, and other purposes essential to its liability program.

(2) Said self-insurance revolving fund shall consist of periodic payments by the University of Washington from any source available to it in such amounts as are deemed reasonably necessary to maintain the fund at levels adequate to provide for the anticipated cost of payments of incurred claims and other costs to be charged against the fund.

(3) No money shall be paid from the self-insurance revolving fund unless first approved by the board of regents, and unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted.

(4) The state investment board shall invest moneys in the self-insurance revolving fund. Moneys invested by the investment board shall be invested in accordance with RCW 43.84.150. [1991 1st sp.s. c 13 § 117; 1975-'76 2nd ex.s. c 12 § 2.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**28B.20.426 Fellowship program in forensic pathology—Funding—Recipient's services to county coroners.** (1) A fellowship program in forensic pathology is created in the school of medicine at the University of Washington. The program shall provide training for one person per year. The program shall be funded from funds in the death investigation account of the general fund under RCW 43.79.445.

(2) The fellowship recipient, during the period of his or her fellowship, shall be available, as soon as his or her level of expertise warrants it, to the county coroners of the state without charge to perform autopsies, for consultations, and to provide testimony in court.

(3) The forensic pathology fellowship shall be administered according to the provisions in RCW 43.103.030, as amended. [1991 c 176 § 3; 1986 c 31 § 1.]

**Effective date—1986 c 31:** "This act shall take effect July 1, 1986." [1986 c 31 § 3.]

**28B.20.462 Warren G. Magnuson institute for biomedical research and health professions training—Established.** The Warren G. Magnuson institute for biomedical research and health professions training is established within the Warren G. Magnuson health sciences center at the University of Washington. The institute shall be administered by the university. The institute may be funded through a combination of federal, state, and private funds, including earnings on the endowment fund in RCW 28B.20.472. [1990 c 282 § 1.]

**28B.20.464 Warren G. Magnuson institute—Purposes.** The purposes of the Warren G. Magnuson institute for biomedical research and health professions training are as follows:

(1) Supporting one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes is the primary purpose of the institute;

(2) Providing financial assistance to students in graduate or postgraduate training programs in the health professions at the university is the secondary purpose of the institute;

(3) Supporting biomedical research into the causes of, the treatment for, or the management of Parkinson's disease, osteoporosis, or any other disease or medical disorder where the achievement of a significant result in the near term is especially promising; and

(4) Enhancing the training, research, and public service missions of the health sciences schools of the University of Washington. [1990 c 282 § 2.]

**28B.20.466 Warren G. Magnuson institute—Endowment fund earnings.** Unless designated otherwise by donors, the earnings on the endowment fund in RCW 28B.20.472 shall be distributed as follows:

(1) Earnings on the first seven hundred fifty thousand dollars shall be expended at the direction of the dean of the school of medicine, in support of one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes;

(2) Earnings on the next two hundred fifty thousand dollars shall be expended to provide financial assistance to students in graduate or postgraduate training programs in the health professions at the university, including: Medicine, nursing, public health and community medicine, dentistry, pharmacy, and social work. At least one such student at all times shall be in a career pathway preparing for or engaged in research related to diabetes, its antecedents, or complications; and

(3) Earnings on additional funds within the endowment may be used for any purpose of the institute as outlined in RCW 28B.20.464. [1990 c 282 § 3.]

**28B.20.468 Warren G. Magnuson institute—Trust fund.** The Warren G. Magnuson institute trust fund is hereby established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for the trust fund shall be deposited into the trust fund. At the request of the board of regents of the University of Washington, and when conditions set forth in RCW 28B.20.470 are met, the treasurer shall release state matching moneys in the fund to the University of Washington's local endowment fund. No appropriation is required for expenditures from the trust fund. [1991 1st sp.s. c 13 § 106; 1990 c 282 § 4.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**28B.20.470 Warren G. Magnuson institute—State matching funds.** The University of Washington may apply to the treasurer for five hundred thousand dollars from the Warren G. Magnuson institute trust fund when the university can match the state funds with an amount of cash donations equal to twice the state funds provided. Private donations mean moneys from nonstate

sources that include, but are not limited to federal moneys and assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15-.66.030 and 15.65.040. [1990 c 282 § 5.]

**28B.20.472 Warren G. Magnuson institute—Local endowment fund.** The state matching funds and the private donations shall be deposited in the university's local endowment fund. The university is responsible for investing and maintaining all moneys within the fund. The principal of the invested endowment fund shall not be invaded. The university may augment the endowment fund with additional private donations. The earnings of the fund shall be used solely to support the purposes of the Warren G. Magnuson institute for biomedical research and health professions training as set forth in RCW 28B.20.464. [1990 c 282 § 6.]

**28B.20.500 Medical students from rural areas—Admission preference.** The school of medicine at the University of Washington shall develop and implement a policy to grant admission preference to prospective medical students from rural areas of the state who agree to serve for at least five years as primary care physicians in rural areas of Washington after completion of their medical education and have applied for and meet the qualifications of the program under chapter 28B.115 RCW. Should the school of medicine be unable to fill any or all of the admission openings due to a lack of applicants from rural areas who meet minimum qualifications for study at the medical school, it may admit students not eligible for preferential admission under this section. [1991 c 332 § 26; 1990 c 271 § 9.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**28B.20.800 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant.** All moneys hereafter received from the lease or rental of lands set apart for the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, and all interest or income arising from the proceeds of the sale of such land, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A-.160, and all proceeds from the sale of timber, fallen timber, stone, gravel, or other valuable material and all other receipts therefrom shall be deposited to the credit of the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B-.20.720. All proceeds of sale of such lands, exclusive of investment income, shall be deposited to the credit of the state university permanent fund, shall be retained therein and shall not be transferred to any other fund or account. All interest earned or income received from the investment of the money in the state university permanent fund shall be deposited to the credit of the University of Washington bond retirement fund less the

allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160.

As a part of the contract of sale of bonds payable out of the University of Washington bond retirement fund, the board of regents of the University of Washington may covenant that all moneys derived from the above provided sources, which are required to be paid into the bond retirement fund, shall continue to be paid into such bond retirement fund for as long as any of such bonds are outstanding. [1991 1st sp.s. c 13 § 97; 1969 ex.s. c 223 § 28B.20.800. Prior: 1965 ex.s. c 135 § 1. Formerly RCW 28.77.620.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

*1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.*

**28B.20.810 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Transfers of certain funds and investments from university permanent fund to University of Washington bond retirement fund and University of Washington building account.** The board of regents of the University of Washington is empowered to authorize from time to time the transfer from the state university permanent fund to be held in reserve in the bond retirement fund created by RCW 28B.20.720 any unobligated funds and investments derived from lands set apart for the support of the university by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, to the extent required to comply with bond covenants regarding principal and interest payments and reserve requirements for bonds payable out of the bond retirement fund up to a total amount of five million dollars, and to transfer any or all of said unobligated funds and investments in excess of five million dollars to the university building account created by RCW 43.79.330(22). Any funds transferred to the bond retirement fund pursuant to this section shall be replaced by moneys first available out of the moneys required to be deposited in such fund pursuant to RCW 28B.20.800. The board is further empowered to direct the state finance committee to convert any investments in such permanent fund acquired with funds derived from such lands into cash or obligations of or guaranteed by the United States of America prior to the transfer of such funds and investments to such reserve account or building account. [1991 1st sp.s. c 13 § 78; 1969 ex.s. c 223 § 28B.20.810. Prior: 1965 ex.s. c 135 § 4. Formerly RCW 28.77.640.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

### Chapter 28B.25

## JOINT CENTER FOR HIGHER EDUCATION

### Sections

28B.25.010 Joint center for higher education established.

28B.25.020 Coordination of programs—Master plan for Spokane higher education park.  
 28B.25.030 Board—Governance.  
 28B.25.033 Board—Membership.  
 28B.25.037 Board—Vacancies.  
 28B.25.040 Board—Director—Staff.  
 28B.25.050 Authority of board.  
 28B.25.060 Repealed.  
 28B.25.070 Board's authority to receive and expend federal funds.  
 28B.25.080 Authority of Washington State University—Transfer of authority to joint center for higher education.  
 28B.25.900 Effective date—1991 c 205.

**28B.25.010 Joint center for higher education established.** A joint center for higher education is hereby established. The center shall be located in Spokane. [1991 c 205 § 2; 1985 c 370 § 97.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**28B.25.020 Coordination of programs—Master plan for Spokane higher education park.** (1) The joint center shall have authority over all fiscal activities related to the land and facilities known as the Spokane higher education park subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.330 through 28B.80.350.

(2) The joint center for higher education shall coordinate all baccalaureate and graduate degree programs, and all other courses and programs offered in the Spokane area by Washington State University and by Eastern Washington University outside of its Cheney campus. The joint center for higher education shall not coordinate the intercollegiate center for nursing.

(3) The joint center for higher education shall coordinate the following higher education activities in the Spokane area outside of the Eastern Washington University Cheney campus:

(a) Articulation between lower division and upper division programs;

(b) The participation of Washington State University and Eastern Washington University in joint programs with Gonzaga University and Whitworth College and in joint programs with each other;

(c) All contractual negotiations between public and independent colleges and universities; and

(d) Programs offered through the intercollegiate research and technology institute created by RCW 28B.10.060.

(4) The participating institutions in the joint center for higher education shall maintain jurisdiction over the content of the course offerings and the entitlement to degrees. However, before any degree is authorized under this section it shall be subject to review and approval of the higher education coordinating board.

(5) The joint center shall develop a master plan for the Spokane higher education park. The plan shall be developed in cooperation with the participating institutions and submitted to the higher education coordinating board, legislature, and office of financial management.

(6) The joint center shall adopt rules as necessary to implement this chapter.

(7) Title to or all interest in real estate and other assets, including but not limited to assignable contracts, cash, equipment, buildings, facilities, and appurtenances thereto held as of July 1, 1991, shall vest in the joint center for higher education. [1991 c 205 § 3; 1989 1st ex.s. c 7 § 11; 1985 c 370 § 98.]

**Legislative findings**—1989 1st ex.s. c 7: See RCW 28B.45.010.

**Severability**—**Effective dates**—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

**28B.25.030 Board—Governance.** (1) The joint center for higher education shall be governed by a board consisting of the following twelve voting members:

(a) One member of the Eastern Washington University board of trustees;

(b) One member of the Washington State University board of regents;

(c) One member of the board of trustees of the Spokane community college district;

(d) Six citizens residing in Spokane county. Of the six citizen members, no more than two may be regents or trustees of Eastern Washington University, Washington State University, or the Spokane community college district; and

(e) The presidents of Washington State University and Eastern Washington University, and the chief executive officer of the Spokane community college district shall serve as ex officio members of the board.

(2) The executive director of the higher education coordinating board, the president of Gonzaga University, and the president of Whitworth College shall serve as nonvoting ex officio members of the board.

(3) Each of the twelve voting members shall have one vote. The voting members shall select a chairperson from among the nine appointed members. A majority of the twelve voting members shall constitute a quorum for conducting business. [1991 c 205 § 4; 1985 c 370 § 99.]

**Severability**—**Effective dates**—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

**28B.25.033 Board—Membership.** Nine members of the board shall be appointed by the governor and approved by the senate. The appointed members of the board shall serve for terms of four years, the terms expiring on September 30th of the fourth year except that, in the case of initial members, three shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms. The term of any board member who is a trustee or regent shall automatically expire when the member's term as trustee or regent expires. [1991 c 205 § 5.]

**28B.25.037 Board—Vacancies.** A vacancy among appointed board members shall be filled by the governor subject to confirmation by the senate then in session, or, if not in session, at the next session. Board members appointed under this section shall have full authority to act as a board member prior to the time the senate acts on the member's confirmation. Appointments to fill vacancies shall be only for such terms as remain unexpired. [1991 c 205 § 6.]

**28B.25.040 Board—Director—Staff.** The board of the joint center for higher education shall hire a director who may hire other staff under chapter 28B.16 RCW as necessary to carry out the center's duties. The director shall exercise such additional powers, other than rule making, as may be delegated by the board by resolution. [1991 c 205 § 7; 1985 c 370 § 100.]

**Severability**—**Effective dates**—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

**28B.25.050 Authority of board.** The board shall have authority to contract for services as deemed appropriate to carry out its functions. Such services shall include, but not be limited to, facilities and project management, grants and contract development and monitoring, personnel services, and accounting. [1991 c 205 § 8; 1985 c 370 § 101.]

**Severability**—**Effective dates**—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

**28B.25.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.25.070 Board's authority to receive and expend federal funds.** The board is authorized to receive and expend federal funds and any private gifts or grants to further the purpose of the center. The funds are to be expended in accordance with federal and state law and any conditions contingent in the grant of those funds. [1991 c 205 § 9.]

**28B.25.080 Authority of Washington State University—Transfer of authority to joint center for higher education.** Washington State University is authorized to represent state interests in acquiring additional property at the site known as the Riverpoint higher education park. This authority will transfer to the joint center for higher education upon the first meeting held by the joint center board. [1991 c 205 § 10.]

**28B.25.900 Effective date**—1991 c 205. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 205 § 13.]

### Chapter 28B.30

#### WASHINGTON STATE UNIVERSITY

##### Sections

28B.30.630	Puget Sound water quality field agents program— Definitions.
28B.30.632	Puget Sound water quality field agents program— Local field agents.
28B.30.634	Puget Sound water quality field agents program— Matching requirements.
28B.30.636	Puget Sound water quality field agents program— Review.
28B.30.638	Puget Sound water quality field agents program— Captions not law.
28B.30.730	Bonds—Issuance, sale, form, term, interest, etc.— Covenants—Deposit of proceeds.

- 28B.30.741 Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands.
- 28B.30.742 Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands.

**28B.30.630 Puget Sound water quality field agents program—Definitions.** As used in RCW 28B.30.630 through 28B.30.638 the following definitions apply:

(1) "Sea grant" means the Washington state sea grant program.

(2) "Cooperative extension" means the cooperative extension service of Washington State University. [1990 c 289 § 1.]

**28B.30.632 Puget Sound water quality field agents program—Local field agents.** (1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and state-wide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 through 28B.30.636 are carried out. They shall consult with the Puget Sound water quality authority and ensure consistency with the authority's water quality management plan.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the

management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds. [1990 c 289 § 2.]

**28B.30.634 Puget Sound water quality field agents program—Matching requirements.** Sea grant and cooperative extension shall require a match from non-state sources of at least twenty-five percent of the cost of the services provided, and not exceeding fifty percent of the cost. The match may be either monetary compensation or in-kind services, such as the provision for office space or clerical support. Only direct costs of providing the services, excluding costs of administrative overhead, may be included in the estimate of costs. [1990 c 289 § 3.]

**28B.30.636 Puget Sound water quality field agents program—Review.** By November 1, 1992, sea grant and cooperative extension shall jointly submit a report to the legislature that includes the activities of the program, an evaluation of the success in improving practices affecting Puget Sound water quality, and recommendations regarding whether the program should be expanded to other areas of Puget Sound. The report shall also recommend additional methods of increasing shellfish propagation, recreational harvesting of shellfish, and addressing of water quality conditions affecting shellfish within Kitsap, Mason, and Jefferson counties. [1990 c 289 § 4.]

**28B.30.638 Puget Sound water quality field agents program—Captions not law.** Captions as used in RCW 28B.30.630 through 28B.30.638 constitute no part of the law. [1990 c 289 § 7.]

**28B.30.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds.** For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of Washington State University or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed

thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.30.700 through 28B.30.780, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement account, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the Washington State University building account to the bond retirement account when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement account to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds shall be deposited in the state treasury to the credit of the Washington State University building account and shall be used solely for paying the costs of the projects. The Washington State University building account shall be credited with the investment income derived pursuant to RCW 43.84.080 on the investible balances of scientific

permanent fund and agricultural permanent fund, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190. [1991 1st sp.s. c 13 § 50; 1985 c 390 § 43; 1972 ex.s. c 25 § 2; 1970 ex.s. c 56 § 28; 1969 ex.s. c 232 § 102; 1969 ex.s. c 223 § 28B-.30.730. Prior: 1961 ex.s. c 12 § 4. Formerly RCW 28.80.530.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Purpose—1970 ex.s. c 56:** See note following RCW 39.52.020.

**Validation—Saving—Severability—1969 ex.s. c 232:** See notes following RCW 39.52.020.

*Chapter not to repeal, override or limit other statutes or actions:* RCW 28B.31.100.

**28B.30.741 Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands.** All moneys received from the lease or rental of lands set apart by the enabling act for a scientific school; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for investment income derived pursuant to RCW 43.84.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "Washington State University bond retirement fund" to be expended for the purposes set forth in RCW 28B.30.740. [1991 1st sp.s. c 13 § 76; 1969 ex.s. c 223 § 28B.30.741. Prior: 1965 c 77 § 1. Formerly RCW 28.80.541.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

*Chapter not to repeal, override or limit other statutes or actions:* RCW 28B.31.100.

**28B.30.742 Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands.** Whenever federal law shall permit all moneys received from the lease or rental of lands set apart by the enabling act for an agricultural college, all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for investment income derived pursuant to RCW 43.84-.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the Washington State University bond retirement fund to be expended for the purposes set forth in RCW 28B.30.740. [1991 1st sp.s. c 13 § 77; 1969 ex.s. c 223 § 28B.30.742. Prior: 1965 c 77 § 2. Formerly RCW 28.80.542.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

*Chapter not to repeal, override or limit other statutes or actions:* RCW 28B.31.100.

## Chapter 28B.31

1977 WASHINGTON STATE UNIVERSITY  
BUILDINGS AND FACILITIES FINANCING ACT

## Sections

28B.31.040 Repealed.

**28B.31.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 28B.35

## REGIONAL UNIVERSITIES

## Sections

28B.35.205 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees.  
 28B.35.361 Exemption of certain veterans from payment of fees.  
 28B.35.370 Disposition of building fees and normal school fund revenues—Bond payments—Capital projects accounts for construction, equipment, maintenance of buildings, etc.  
 28B.35.751 Disposition of certain normal school fund revenues.

**28B.35.205 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees.** In addition to all other powers and duties given to them by law, Central Washington University, Eastern Washington University, and Western Washington University are hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: PROVIDED, That before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property. [1991 c 58 § 2; 1985 c 370 § 84; 1979 c 14 § 4. Prior: 1977 ex.s. c 169 § 51. Cf: 1975 1st ex.s. c 232 § 1.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80-.911 and 28B.80.912.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**28B.35.361 Exemption of certain veterans from payment of fees.** The boards of trustees of each regional university may exempt from the payment of tuition or services and activities fees, except for individual instruction fees, (1) all veterans who served in the armed forces of the United States who have served the United States during any period of war as defined in RCW 41.04.005 and who shall have served with evidence of conduct other than undesirable, bad conduct or dishonorable upon release from active service: PROVIDED, That

such person is no longer entitled to federal vocational or educational benefits conferred by virtue of his military service: PROVIDED FURTHER, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in the regional universities on or before October 1, 1977, and (2) all children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a regional university within ten years of their graduation from high school. [1990 c 154 § 3; 1985 c 390 § 46; 1977 ex.s. c 322 § 12; 1977 ex.s. c 169 § 59. Prior: 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28B.40.361, part; 28.81.084.]

**Severability—1977 ex.s. c 322:** See note following RCW 28B.15.065.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**28B.35.370 Disposition of building fees and normal school fund revenues—Bond payments—Capital projects accounts for construction, equipment, maintenance of buildings, etc.** Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used exclusively to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described normal school fund revenue bonds of its institution, the

state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law. [1991 1st sp.s. c 13 § 49. Prior: 1985 c 390 § 47; 1985 c 57 § 15; 1977 ex.s. c 169 § 79; 1969 ex.s. c 223 § 28B.40.370; prior: 1967 c 47 §§ 11, 14; 1965 c 76 § 2; 1961 ex.s. c 14 § 5; 1961 ex.s. c 13 § 4. Formerly RCW 28B.40.370; 28.81-.085; 28.81.540.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**28B.35.751 Disposition of certain normal school fund revenues.** All moneys received from the lease or rental of lands set apart by the enabling act for state normal schools purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A-.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands, shall from time to time be paid into the state treasury and credited to the Eastern Washington University, Central Washington University, Western Washington University and The Evergreen State College capital projects accounts as herein provided to be expended for capital projects, and bond retirement purposes as set forth in RCW 28B.35.750, as now or hereafter amended. Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College shall be credited with one-fourth of the total amount: PROVIDED, That Eastern Washington University, Central Washington University and Western Washington University shall each be credited with one-third of the total amount for so long as there remain unpaid and outstanding any bonds which

are payable in whole or in part out of the moneys, interest or income described in this section. [1991 1st sp.s. c 13 § 95; 1977 ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28B.40.751; 28.81.551.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

## Chapter 28B.40

### THE EVERGREEN STATE COLLEGE

#### Sections

- 28B.40.206 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees.  
28B.40.361 Exemption of certain veterans from payment of fees.

**28B.40.206 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees.** In addition to all other powers and duties given to them by law, the board of trustees of The Evergreen State College is hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: PROVIDED, That any degree authorized under this section shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property. [1991 c 58 § 3; 1985 c 370 § 85; 1979 ex.s. c 78 § 1.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80-.911 and 28B.80.912.

**Severability—1979 ex.s. c 78:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 78 § 4.] This applies to RCW 28B.40.206, 28B.40.240 and 28B.40.244.

**28B.40.361 Exemption of certain veterans from payment of fees.** The board of trustees of The Evergreen State College may exempt from the payment of tuition or services and activities fees, except for individual instruction fees, (1) all veterans who served in the armed forces of the United States who have served the United States during any period of war as defined in RCW 41-.04.005 and who shall have served with evidence of conduct other than undesirable, bad conduct or dishonorable upon release from active service: PROVIDED, That such person is no longer entitled to federal vocational or educational benefits conferred by virtue of his military service: PROVIDED FURTHER, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in state colleges on

or before October 1, 1977, and (2) all children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at The Evergreen State College within ten years of their graduation from high school. [1990 c 154 § 4; 1985 c 390 § 53; 1977 ex.s. c 322 § 11; 1977 ex.s. c 169 § 78; 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28.81.084.]

**Severability**—1977 ex.s. c 322: See note following RCW 28B.15.065.

**Severability**—**Nomenclature**—**Savings**—1977 ex.s. c 169: See notes following RCW 28B.10.016.

**Effective date**—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

\* *Totally disabled* defined for certain purposes: RCW 28B.15.385.

## Chapter 28B.45 BRANCH CAMPUSES

### Sections

28B.45.050 Washington State University and Eastern Washington University—Spokane area.

**28B.45.050 Washington State University and Eastern Washington University—Spokane area.** Washington State University and Eastern Washington University are responsible for providing upper-division and graduate level programs to the citizens of the Spokane area, under rules or guidelines adopted by the joint center for higher education. However, before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board. Washington State University shall meet its responsibility through the operation of a branch campus in the Spokane area. Eastern Washington University shall meet its responsibility through the operation of programs and facilities in Spokane. [1991 c 205 § 11; 1989 1st ex.s. c 7 § 6.]

**Effective date**—1991 c 205: See RCW 28B.25.900.

## Chapter 28B.50 COMMUNITY AND TECHNICAL COLLEGES (Formerly: Community colleges)

### Sections

28B.50.010 Short title.  
28B.50.020 Purpose.  
28B.50.030 Definitions.  
28B.50.040 College districts enumerated.  
28B.50.050 State board for community and technical colleges.  
28B.50.055 Repealed.  
28B.50.060 Director of the state system of community and technical colleges—Appointment—Term—Qualifications—Salary and travel expenses—Duties.  
28B.50.085 College board—Treasurer—Appointment, duties, bond—Depository.  
28B.50.090 College board—Powers and duties.

28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program.  
28B.50.093 College board—Program for military personnel—Limitation.  
28B.50.095 College board—Registration at more than one community and technical college.  
28B.50.096 College board—Cooperation with work force training and education coordinating board.  
28B.50.098 Appointment of trustees for new college district.  
28B.50.100 Boards of trustees—Generally.  
28B.50.130 Boards of trustees—Bylaws, rules, and regulations—Chair and vice-chair—Terms—Quorum.  
28B.50.140 Boards of trustees—Powers and duties.  
28B.50.1401 Lake Washington Technical College board of trustees.  
28B.50.1402 Renton Technical College board of trustees.  
28B.50.1403 Bellingham Technical College board of trustees.  
28B.50.1404 Bates Technical College board of trustees.  
28B.50.1405 Clover Park Technical College board of trustees.  
28B.50.142 Treasurer of board—Duties—Bond.  
28B.50.143 Vendor payments, advances or reimbursements for.  
28B.50.145 Community or technical college faculty senate.  
28B.50.150 Out-of-district residence not to affect enrollment for state resident.  
28B.50.205 AIDS information—Community and technical colleges.  
28B.50.215 Overlapping service areas—Regional planning agreements.  
28B.50.242 Video telecommunications programming.  
28B.50.250 Adult education programs in common school districts, limitations—Certain federal programs, administration.  
28B.50.252 Districts offering vocational educational programs—Local advisory committees—Advice on current job needs.  
28B.50.254 Advisory council on adult education—Work force training and education coordinating board to monitor.  
28B.50.256 Facilities shared by vocational-technical institute programs and K-12 programs.  
28B.50.258 Training in timber impact areas.  
28B.50.259 Program for dislocated forest products workers—Tuition and fee waiver.  
28B.50.300 Decodified.  
28B.50.301 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to district board—Exceptions.  
28B.50.302 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to state board for community and technical colleges—Exceptions.  
28B.50.305 Seattle Vocational Institute—Findings.  
28B.50.306 Seattle Vocational Institute—Mission—Advisory committee to advise.  
28B.50.307 Seattle Vocational Institute—Funding.  
28B.50.320 Fees and other income—Deposit—Disbursement.  
28B.50.327 Collection of student tuition and fees—Seattle Vocational Institute.  
28B.50.328 Waivers of tuition and fees—Scholarships—Employment of instructional staff and faculty—Seattle Vocational Institute.  
28B.50.330 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by revenue bonds—Bid procedure.  
28B.50.340 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by bonds secured by pledge of building fees, grants.  
28B.50.350 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Requirements.  
28B.50.360 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Community and technical

college capital projects account—Disposition of building fees.

28B.50.370 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Sources for payment of principal and interest on—Funds credited to bond retirement fund—Pledge to collect building fees.

28B.50.402 Transfer of moneys in community and technical college bond retirement fund to state general fund—Exception.

28B.50.404 Refunding bonds—Issuance—Security.

28B.50.405 Refunding bonds—Community and technical college refunding bond retirement fund of 1974.

28B.50.409 Bonds—Committee advice and consent prerequisite to issuance.

28B.50.455 Vocational education of individuals with disabilities—Procedures.

28B.50.482 Accumulated sick leave—Transferred employees of vocational-technical institutes.

28B.50.484 Health care service contracts—Transferred employees of vocational-technical institutes.

28B.50.520 Federal funds, receipt of authorized.

28B.50.522 Office for adult literacy.

28B.50.528 Contracts with adjacent college district for administrative services.

28B.50.533 Contracts with common school districts for occupational and academic programs for high school students—Enrollment opportunities—Interlocal agreements.

28B.50.535 Community or technical college may issue high school diploma or certificate, limitation.

28B.50.551 Leave provisions generally.

28B.50.600 School district bonds—Redemption of by school district to continue though facility under control of college district board.

28B.50.601 School district bonds—Redemption—Facilities under administration of college district board.

28B.50.740 School district bonds—Those issued for community and technical college facilities not considered indebtedness under statutory limitations on.

28B.50.835 Exceptional faculty awards—Intent.

28B.50.837 Exceptional faculty awards—Established—Community and technical college faculty awards trust fund.

28B.50.839 Exceptional faculty awards—Guidelines—Matching funds—Donations—Disbursements.

28B.50.841 Exceptional faculty awards—Name of award—Duties of institution—Use of endowment proceeds.

28B.50.843 Exceptional faculty awards—Determination of award—Collective bargaining.

28B.50.850 Faculty tenure—Purpose.

28B.50.851 Faculty tenure—Definitions.

28B.50.852 Faculty tenure—Rules and regulations—Award of faculty tenure—Maximum probationary period.

28B.50.857 Faculty tenure—Decision not to renew probationary appointment, notice by appointing authority, when.

28B.50.858 Faculty tenure—Performance review and evaluation—Performance improvement plan—Revocation of tenure.

28B.50.867 Faculty tenure—Tenure rights upon transfer of employment to another community or technical college.

28B.50.869 Faculty tenure—Review committees, composition—Selection of teaching faculty representatives, student representative.

28B.50.870 Faculty tenure—For certain educational programs operated in state correctional institutions.

28B.50.873 Reduction in force of tenured or probationary faculty members due to financial emergency—Conditions—Procedure—Rights.

28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges—Personnel rights.

28B.50.875 Laboratory services for the analyzing of samples, public agencies may contract with college for.

28B.50.877 Technical colleges—Purchase of support services from school districts.

28B.50.880 Apprentices—Related and supplemental instruction—Training of teachers and coordinators.

28B.50.900 Evaluation of merger of technical and community colleges—Report.

28B.50.912 Transfer of powers from superintendent of public instruction and state board of education to state board for community and technical colleges.

28B.50.913 Transfer of powers from Washington institute for applied technology to Seattle Vocational Institute.

28B.50.914 Transfer of powers from school districts to state board for community and technical colleges.

28B.50.915 Transfer of powers from superintendent of public instruction to state board for community and technical colleges.

28B.50.917 Effective dates—1991 c 238.

28B.50.918 Severability—1991 c 238.

**28B.50.010 Short title.** This chapter shall be known as and may be cited as the community and technical college act of 1991. [1991 c 238 § 20; 1969 ex.s. c 223 § 28B.50.010. Prior: 1967 ex.s. c 8 § 1. Formerly RCW 28.85.010.]

**28B.50.020 Purpose.** The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, college districts containing only technical colleges shall maintain programs solely for occupational education, basic skills, and literacy purposes, and, for as long as a need exists, may continue those programs, activities, and services offered by the technical colleges during the twelve-month period preceding September 1, 1991;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive work force;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training and service programs as future needs occur; and

(7) Establish firmly that community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges. [1991 c 238 § 21; 1969 ex.s. c 261 § 17; 1969 ex.s. c 223 § 28B.50.020. Prior: 1967 ex.s. c 8 § 2.]

**Severability**—1969 ex.s. c 261: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 261 § 37. Formerly RCW 28.85.911.]

**28B.50.030 Definitions.** As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational

Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(15) "Timber impact area" shall mean a county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average. [1991 c 315 § 15; 1991 c 238 § 22; 1985 c 461 § 14; 1982 1st ex.s. c 53 § 24; 1973 c 62 § 12; 1969 ex.s.

c 261 § 18; 1969 ex.s. c 223 § 28B.50.030. Prior: 1967 ex.s. c 8 § 3.]

**Reviser's note:** This section was amended by 1991 c 238 § 22 and by 1991 c 315 § 15, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**Severability—1985 c 461:** See note following RCW 41.06.020.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**28B.50.040 College districts enumerated.** The state of Washington is hereby divided into twenty-nine college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district and that portion encompassed by the twenty-third district created in subsection (23) of this section: **PROVIDED**, That the fifth district shall encompass the Everett Community College;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass Lewis county, the Rochester common school district No. 401, the Tenino common school district No. 402 of Thurston county, and the Thurston county portion of the Centralia common school district No. 401;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county;

(23) The twenty-third district shall encompass that portion of Snohomish county within such boundaries as the state board for community and technical colleges shall determine: **PROVIDED**, That the twenty-third district shall encompass the Edmonds Community College;

(24) The twenty-fourth district shall encompass all of Thurston county except the Rochester common school district No. 401, the Tenino common school district No. 402, and the Thurston county portion of the Centralia common school district No. 401;

(25) The twenty-fifth district shall encompass all of Whatcom county;

(26) The twenty-sixth district shall encompass the Northshore, Lake Washington, Bellevue, Mercer Island, Issaquah, Riverview, Snoqualmie Valley and Skykomish school districts;

(27) The twenty-seventh district shall encompass the Renton, Kent, Auburn, Tahoma, and Enumclaw school districts and a portion of the Seattle school district described as follows: Commencing at a point established by the intersection of the Duwamish river and the south boundary of the Seattle Community College District (number six) and thence north along the centerline of the Duwamish river to the west waterway; thence north along the centerline of the west waterway to Elliot Bay; thence along Elliot Bay to a line established by the intersection of the extension of Denny Way to Elliot Bay; thence east along the line established by the centerline of Denny Way to Lake Washington; thence south along the shoreline of Lake Washington to the south line of the Seattle Community College District; and thence west

along the south line of the Seattle Community College District to the point of beginning;

(28) The twenty-eighth district shall encompass all of Pierce county; and

(29) The twenty-ninth district shall encompass all of Pierce county. [1991 c 238 § 23; 1988 c 77 § 1; 1981 c 72 § 1; 1973 1st ex.s. c 46 § 7; 1969 ex.s. c 223 § 28B-.50.040. Prior: 1967 ex.s. c 8 § 4. Formerly RCW 28.85.040.]

**Effective date—1988 c 77:** "Section 2 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of this act shall take effect July 1, 1988." [1988 c 77 § 12.] "Section 2 of this act" was a temporary section (uncodified).

**Severability—1988 c 77:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 77 § 11.]

**District No. 23 Interlocal cooperation agreements by school districts in Snohomish county authorized—1981 c 72:** "Any school district within Snohomish county may enter into interlocal cooperation agreements with any community college located within Snohomish county pursuant to the provisions of chapter 39.34 RCW." [1981 c 72 § 8.]

**Savings—Provisions of existing collective bargaining agreement—1981 c 72:** "Nothing contained in this amendatory act shall be construed to alter any provision of any existing collective bargaining agreement until any such agreement has expired or been modified pursuant to chapter 28B.52 RCW." [1981 c 72 § 9.]

**Savings—Generally—1981 c 72:** "Nothing in this amendatory act shall be construed to affect any existing rights, nor as affecting any actions, activities, or proceedings validated prior to the effective date of this amendatory act, nor as affecting any civil or criminal proceedings, nor any rule, regulation, or order promulgated, nor any administrative action taken prior to the effective date of this amendatory act, and the validity of any act performed with respect to Edmonds Community College, or any officer or employee thereof prior to the effective date of this amendatory act, is hereby validated." [1981 c 72 § 10.]

**Effective date of this amendatory act defined—1981 c 72:** "The phrase 'the effective date of this amendatory act' as used in sections 3, 4, 6 and 10 of this amendatory act shall mean July 1, 1981: *Provided*, That nothing in this amendatory act shall prohibit any transfers mandated in section 4 hereof nor the action contemplated in section 11 hereof prior to such July 1, 1981." [1981 c 72 § 12.]

**Severability—1981 c 72:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 72 § 13.]

**Severability—1973 1st ex.s. c 46:** See note following RCW 28B.10.704.

**28B.50.050 State board for community and technical colleges.** There is hereby created the "state board for community and technical colleges", to consist of nine members who represent the geographic diversity of the state, and who shall be appointed by the governor, with the consent of the senate. At least two members shall reside east of the Cascade mountains. In making these appointments, the governor shall attempt to provide geographic balance and give consideration to representing labor, business, women, and racial and ethnic minorities, among the membership of the board. At least one member of the board shall be from business and at least one member of the board shall be from labor. The current members of the state board for community college education on September 1, 1991, shall serve on the state board for community and technical colleges until

their terms expire. Successors to these members shall be appointed according to the terms of this section. A ninth member shall be appointed by September 1, 1991, for a complete term.

The successors of the members initially appointed shall be appointed for terms of four years except that a person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his or her successor. All members shall be citizens and bona fide residents of the state.

Members of the college board shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for each day actually spent in attending to the duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B-.10.500. [1991 c 238 § 30; 1988 c 76 § 1; 1984 c 287 § 64; 1982 1st ex.s. c 30 § 9; 1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5.]

**Legislative findings—Severability—Effective date—1984 c 287:** See notes following RCW 43.03.220.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

*Appointment of director of state system of community and technical colleges, by:* RCW 28B.50.060.

*Bond issue for capital projects for community colleges, 1981, board duties:* RCW 28B.59D.010 through 28B.59D.070.

*Displaced homemaker act, board participation:* RCW 28B.04.080.

*Employees of, appointment and employment of:* RCW 28B.50.060.

*Powers and duties:* RCW 28B.50.090.

*State occupational forecast—Other agencies consulted prior to:* RCW 50.38.030.

**28B.50.055 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Contingency—1991 c 238 §§ 93-101, 156:** See note following RCW 28B.50.305.

**28B.50.060 Director of the state system of community and technical colleges—Appointment—Term—Qualifications—Salary and travel expenses—Duties.** A director of the state system of community and technical colleges shall be appointed by the college board and shall serve at the pleasure of the college board. The director shall be appointed with due regard to the applicant's fitness and background in education, and knowledge of and recent practical experience in the field of educational administration particularly in institutions beyond the high school level. The college board may also take into consideration an applicant's proven management background even though not particularly in the field of education.

The director shall devote his or her time to the duties of his or her office and shall not have any direct pecuniary interest in or any stock or bonds of any business connected with or selling supplies to the field of education within this state, in keeping with chapter 42.18 RCW, the executive conflict of interest act.

The director shall receive a salary to be fixed by the college board and shall be reimbursed for travel expenses incurred in the discharge of his or her official duties in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

The director shall be the executive officer of the college board and serve as its secretary and under its supervision shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the state. The director shall attend, but not vote at, all meetings of the college board. The director shall be in charge of offices of the college board and responsible to the college board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community and technical colleges. At the direction of the college board, the director shall, together with the chairman of the college board, execute all contracts entered into by the college board.

The director shall, with the approval of the college board: (1) Employ necessary assistant directors of major staff divisions who shall serve at the director's pleasure on such terms and conditions as the director determines, and (2) subject to the provisions of chapter 28B.16 RCW, the higher education personnel law, the director shall, with the approval of the college board, appoint and employ such field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the college board and for whose services funds have been appropriated.

The board may, by written order filed in its office, delegate to the director any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the college board. [1991 c 238 § 31; 1975-'76 2nd ex.s. c 34 § 75; 1973 1st ex.s. c 46 § 8; 1973 c 62 § 14; 1969 ex.s. c 261 § 20; 1969 ex.s. c 223 § 28B.50.060. Prior: 1967 ex.s. c 8 § 6.]

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Severability—1973 1st ex.s. c 46:** See note following RCW 28B.10.704.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

*High-technology coordinating board, director or designee member of:* RCW 28B.65.040.

**28B.50.085 College board—Treasurer—Appointment, duties, bond—Depository.** The state board for community and technical colleges shall appoint a treasurer who shall be the financial officer of the board, who shall make such vendor payments and salary payments for the entire community and technical college system as authorized by the state board, and who shall

hold office during the pleasure of the board. All moneys received by the state board and not required to be deposited elsewhere, shall be deposited in a depository selected by the board, which moneys shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the state board shall conform to the collateral requirements required for the deposit of other state funds. Disbursement shall be made by check signed by the treasurer. The treasurer shall render a true and faithful account of all moneys received and paid out by him or her and shall give bond for the faithful performance of the duties of his or her office in such amount as the board requires: **PROVIDED**, That the board shall pay the fee for any such bonds. [1991 c 238 § 32; 1981 c 246 § 4.]

**Severability—1981 c 246:** See note following RCW 28B.50.090.

**28B.50.090 College board—Powers and duties.** The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding May 17, 1991;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing

courses of study, will be considered, known and recognized equally as members of the student body: **PROVIDED**, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and

convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: **PROVIDED**, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(15) The college board shall have the power of eminent domain;

(16) Provide general supervision over the state's technical colleges. The president of each technical college shall report directly to the director of the state board for community and technical colleges, or the director's designee, until local control is assumed by a new or existing board of trustees as appropriate, except that a college president shall have authority over program decisions of his or her college until the establishment of a board of trustees for that college. The directors of the vocational-technical institutes on March 1, 1991, shall be designated as the presidents of the new technical colleges. [1991 c 238 § 33; 1982 c 50 § 1; 1981 c 246 § 2; 1979 c 151 § 20; 1977 ex.s. c 282 § 4; 1973 c 62 § 16; 1969 ex.s. c 261 § 21; 1969 ex.s. c 223 § 28B.50.090. Prior: 1967 ex.s. c 8 § 9.]

**Severability—1981 c 246:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 246 § 6.]

**Severability—1977 ex.s. c 282:** See note following RCW 28B.50.870.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**Construction, reconstruction, equipping facilities—Financing:** RCW 28B.50.340.

**Development of budget:** RCW 43.88.090.

**Eminent domain:** Title 8 RCW.

**State budgeting, accounting, and reporting system:** Chapter 43.88 RCW.

**28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program.** The state board for community and technical colleges may authorize any board of trustees to do all things necessary to conduct an education, training, and service program authorized by chapter 28B.50 RCW, as now or hereafter amended, for United States military personnel and their dependents, and department of defense civilians and their dependents, at any geographical location: PROVIDED, That such programs shall be limited to those colleges which conducted programs for United States military personnel prior to January 1, 1977: PROVIDED FURTHER, That any high school completion program conducted pursuant to this section shall comply with standards set forth in rules and regulations promulgated by the superintendent of public instruction and the state board of education: AND PROVIDED FURTHER, That the superintendent of public instruction shall issue the certificate or diploma in recognition of high school completion education provided pursuant to this section. [1991 c 238 § 34; 1977 ex.s. c 131 § 1; 1973 c 105 § 1.]

**28B.50.093 College board—Program for military personnel—Limitation.** Prior to the state board granting authorization for any programs authorized under RCW 28B.50.092, the state board shall determine that such authorization will not deter from the primary functions of the community and technical college system within the state of Washington as prescribed by chapter 28B.50 RCW. [1991 c 238 § 35; 1973 c 105 § 2.]

**28B.50.095 College board—Registration at more than one community and technical college.** In addition to other powers and duties, the college board may issue rules and regulations permitting a student to register at more than one community and technical college, provided that such student shall pay tuition and fees as if the student were registered at a single college, but not to exceed tuition and fees charged a full-time student as established by RCW 28B.15.502. [1991 c 238 § 36; 1983 c 3 § 40; 1973 c 129 § 1.]

**28B.50.096 College board—Cooperation with work force training and education coordinating board.** The college board shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board. [1991 c 238 § 79.]

**28B.50.098 Appointment of trustees for new college district.** In the event a new college district is created, the governor shall appoint new trustees to the district's board of trustees in accordance with RCW 28B.50.100. [1991 c 238 § 134.]

**28B.50.100 Boards of trustees—Generally.** There is hereby created a board of trustees for each college district as set forth in this chapter. Each board of trustees shall be composed of five trustees, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments the governor shall give consideration to geographical diversity, and representing labor, business, women, and racial and ethnic minorities, in the membership of the boards of trustees. The boards of trustees for districts containing technical colleges shall include at least one member from business and one member from labor.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the college district. No trustee may be an employee of the community and technical college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Members of the boards of trustees may be removed for misconduct or malfeasance in office in the manner provided by RCW 28B.10.500. [1991 c 238 § 37; 1987 c 330 § 1001; 1983 c 224 § 1; 1979 ex.s. c 103 § 1; 1977 ex.s. c 282 § 2; 1973 c 62 § 17; 1969 ex.s. c 261 § 22; 1969 ex.s. c 223 § 28B.50.100. Prior: 1967 ex.s. c 8 § 10.]

**Construction—Application of rules—Severability—1987 c 330:** See notes following RCW 28B.12.050.

**Severability—1979 ex.s. c 103:** See note following RCW 28B.20.100.

**Severability—1977 ex.s. c 282:** See note following RCW 28B.50.870.

**Effective date—1977 ex.s. c 282 §§ 2, 3:** "Sections 2 and 3 of this 1977 amendatory act shall not take effect until January 1, 1978." [1977 ex.s. c 282 § 9.]

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability**—1969 ex.s. c 261: See note following RCW 28B.50.020.

*Chief executive officer as secretary of board: RCW 28B.50.130.*

**28B.50.130 Boards of trustees—Bylaws, rules, and regulations—Chair and vice-chair—Terms—Quorum.** Within thirty days of their appointment the various district boards of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chair and vice-chair, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. The chief executive officer of the college district, or designee, shall serve as secretary of the board. Three trustees shall constitute a quorum, and no action shall be taken by less than a majority of the trustees of the board. The district boards shall transmit such reports to the college board as may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state. [1991 c 238 § 38; 1977 c 75 § 27; 1973 c 62 § 18; 1969 ex.s. c 223 § 28B.50.130. Prior: 1967 ex.s. c 8 § 13. Formerly RCW 28.85.130.]

**Savings—Severability**—1973 c 62: See notes following RCW 28B.10.510.

*District president or president of college as secretary of board: RCW 28B.50.100.*

*Fiscal year defined: RCW 43.88.020.*

**28B.50.140 Boards of trustees—Powers and duties.** Each board of trustees:

(1) Shall operate all existing community and technical colleges in its district;

(2) Shall create comprehensive programs of community and technical college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3). However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding September 1, 1991;

(3) Shall employ for a period to be fixed by the board a college president for each community and technical college and, may appoint a president for the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the

state board for community and technical colleges. The state board for community and technical colleges shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However, the authority of boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(5);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community and technical college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community and technical college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community and technical college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community and technical college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community and technical college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate. Technical colleges shall offer only nonbaccalaureate technical degrees, certificates, or diplomas for occupational courses of study under rules of the college board. Technical colleges in districts twenty-eight and twenty-nine may offer nonbaccalaureate associate of technical or applied arts degrees only in conjunction with a community college the district of which overlaps with the district of the technical college, and these degrees may only be offered after a contract or agreement is executed between the technical college and the community college. The authority and responsibility to offer transfer level academic support and general education for students of districts twenty-one and twenty-five shall reside exclusively with Whatcom Community College. The board, upon recommendation of the faculty, may also confer honorary associate of arts degrees upon persons other than graduates of the community college, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property;

(13) Shall enforce the rules and regulations prescribed by the state board for community and technical colleges for the government of community and technical colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community and technical colleges as the board of trustees may in its discretion deem necessary or appropriate to the administration of college districts: **PROVIDED**, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community and technical college facilities, and discipline: **PROVIDED**, **FURTHER**, That the board of trustees may suspend or expel from community and technical colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15

RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community and technical colleges: **PROVIDED**, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community and technical college employees during the term of the agreement: **PROVIDED FURTHER**, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: **PROVIDED**, That such contracts shall be subject to review by the state board for community and technical colleges and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: **PROVIDED FURTHER**, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4), may participate in higher education centers and consortia that involve any four-year public or independent college or university; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board. [1991 c 238 § 39; 1991 c 58 § 1; 1990 c 135 § 1. Prior: 1987 c 407 § 1; 1987 c 314 § 14; 1985 c 370 § 96; 1981 c 246 § 3; 1979 ex.s. c 226 § 11; 1979 c 14 § 6; prior: 1977 ex.s. c 282 § 5; 1977 c 75 § 28; 1973 c 62 § 19; 1970 ex.s. c 15 § 17; prior: 1969 ex.s. c 283 § 30; 1969 ex.s. c 261 § 23; 1969 ex.s. c 223 § 28B.50.140; prior: 1967 ex.s. c 8 § 14.]

**Reviser's note:** This section was amended by 1991 c 58 § 1 and by 1991 c 238 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1987 c 314:** See RCW 28B.52.900.

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 246:** See note following RCW 28B.50.090.

**Effective date—Severability—1979 ex.s. c 226:** See notes following RCW 28B.59C.010.

**Severability—1977 ex.s. c 282:** See note following RCW 28B.50.870.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1970 ex.s. c 15:** See note following RCW 28A.230.160.

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**28B.50.1401 Lake Washington Technical College board of trustees.** There is hereby created a board of trustees for district twenty-six and Lake Washington Vocational-Technical Institute, hereafter known as Lake Washington Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 24.]

**28B.50.1402 Renton Technical College board of trustees.** There is hereby created a board of trustees for district twenty-seven and Renton Vocational-Technical Institute, hereafter known as Renton Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 25.]

**28B.50.1403 Bellingham Technical College board of trustees.** There is hereby created a board of trustees for district twenty-five and Bellingham Vocational-Technical Institute, hereafter known as Bellingham Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 26.]

**28B.50.1404 Bates Technical College board of trustees.** There is hereby created a new board of trustees for district twenty-eight and Bates Vocational-Technical Institute, hereafter known as Bates Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 27.]

**28B.50.1405 Clover Park Technical College board of trustees.** There is hereby created a new board of trustees for district twenty-nine and Clover Park Vocational-Technical Institute, hereafter known as Clover Park Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 28.]

**28B.50.142 Treasurer of board—Duties—Bond.** Each board of trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him or her, comply with the provisions of RCW 28B.50.143, and shall give bond for the faithful performance of the duties of his or her office in such amount as the trustees require: PROVIDED, That the respective community and technical colleges shall pay the fees for any such bonds. [1991 c 238 § 40; 1977 ex.s. c 331 § 1.]

**Effective date—Severability—1977 ex.s. c 331:** See notes following RCW 28B.15.031.

**28B.50.143 Vendor payments, advances or reimbursements for.** In order that each college treasurer appointed in accordance with RCW 28B.50.142 may make vendor payments, the state treasurer will honor warrants drawn by each community and technical college providing for one initial advance on July 1 of each succeeding biennium from the state general fund in an amount equal to seventeen percent of each institution's average monthly allotment for such budgeted biennium expenditures as certified by the office of financial management, and at the conclusion of each such initial month, and for each succeeding month of any biennium, the state treasurer will reimburse each institution for each expenditure incurred and reported monthly by each college treasurer in accordance with chapter 43.83 RCW: PROVIDED, That the reimbursement to each institution for actual expenditures incurred in the final month of each biennium shall be less the initial advance. [1991 c 238 § 41; 1985 c 180 § 1; 1979 c 151 § 21; 1977 ex.s. c 331 § 2.]

**Effective date—Severability—1977 ex.s. c 331:** See notes following RCW 28B.15.031.

**28B.50.145 Community or technical college faculty senate.** The boards of trustees of the various college districts may create at each community or technical college under their control a faculty senate or similar organization to be selected by periodic vote of the respective faculties thereof. [1991 c 238 § 42; 1969 ex.s. c 283 § 51. Formerly RCW 28.85.145.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.150 Out-of-district residence not to affect enrollment for state resident.** Any resident of the state may enroll in any program or course maintained or conducted by a college district upon the same terms and conditions regardless of the district of his or her residence. [1991 c 238 § 43; 1969 ex.s. c 223 § 28B.50.150. Prior: 1967 ex.s. c 8 § 15. Formerly RCW 28.85.150.]

**28B.50.205 AIDS information—Community and technical colleges.** The state board for community and technical colleges shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network. [1991 c 238 § 44; 1988 c 206 § 502.]

**Severability—1988 c 206:** See RCW 70.24.900.

**28B.50.215 Overlapping service areas—Regional planning agreements.** The colleges in each overlapping service area shall jointly submit for approval to the state board for community and technical colleges not later than December 1, 1991, a regional planning agreement. The agreement shall provide for the ongoing interinstitutional coordination of community and technical college

programs and services operated in the overlapping service area. The agreement shall include the means for the adjudication of issues arising from overlapping service areas. The agreement shall include a definitive statement of mission, scope, and purpose for each college including the nature of courses, programs, and services to be offered by each college. The statement shall include a provision that the technical colleges shall not offer courses designed for transfer to baccalaureate granting institutions. This shall not preclude such offerings provided through contracts or agreements with a community college in the service area.

Any part of the agreement that is not approved by all the colleges in the service area, shall be determined by the state board for community and technical colleges. Approved regional planning agreements shall be enforced by the full authority of the state board for community and technical colleges. Changes to the agreement are subject to state board approval.

For the purpose of creating and adopting a regional planning agreement, the trustees of the colleges in Pierce county shall form a county coordinating committee. The county coordinating committee shall consist of eight members. Each college board of trustees in Pierce county shall select two of its members to serve on the county coordinating committee. The county coordinating committee shall not employ its own staff, but shall instead utilize staff of the colleges in the county. The regional planning agreement adopted by the county coordinating committee shall include, but shall not be limited to: The items listed in this section, the transfer of credits between technical and community colleges, program articulation, and the avoidance of unnecessary duplication in programs, activities, and services. [1991 c 238 § 144.]

**28B.50.242 Video telecommunications programming.** The state board for community and technical colleges shall provide state-wide coordination of video telecommunications programming for the community and technical college system. [1991 c 238 § 45; 1990 c 208 § 10.]

**28B.50.250 Adult education programs in common school districts, limitations—Certain federal programs, administration.** The state board for community and technical colleges and the state board of education are hereby authorized to permit, on an ad hoc basis, the common school districts to conduct pursuant to RCW 28B.50.530 a program in adult education in behalf of a college district when such program will not conflict with existing programs of the same nature and in the same geographical area conducted by the college districts: PROVIDED, That federal programs for adult education shall be administered by the state board for community and technical colleges, which agency is hereby declared to be the state educational agency primarily responsible for supervision of adult education in the public schools as defined by \*RCW 28B.50.020. [1991 c 238 § 46; 1969 ex.s. c 261 § 25; 1969 ex.s. c 223 § 28B.50.250. Prior: 1967 ex.s. c 8 § 25.]

*\*Reviser's note:* The reference to RCW 28B.50.020 appears to be erroneous. "Adult education" is defined in RCW 28B.50.030.

*Severability—1969 ex.s. c 261:* See note following RCW 28B.50.020.

*Community education programs: RCW 28A.620.020.*

**28B.50.252 Districts offering vocational educational programs—Local advisory committees—Advice on current job needs.** (1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

(2) The local program committees shall:

(a) Participate in the determination of program goals;

(b) Review and evaluate program curricula, equipment, and effectiveness;

(c) Include representatives of business and labor who reflect the local industry, and the community; and

(d) Actively consult with other representatives of business, industry, labor, and agriculture. [1991 c 238 § 77.]

**28B.50.254 Advisory council on adult education—Work force training and education coordinating board to monitor.** (1) There is hereby created the Washington advisory council on adult education. The advisory council shall advise the state board for community and technical colleges and the work force training and education coordinating board concerning adult basic education and literacy programs. The advisory council shall perform all duties of state advisory councils on adult education as specified in P.L. 100-297, as amended. The advisory council's actions shall be consistent with the state comprehensive plan for work force training and education prepared by the work force training and education coordinating board as provided for in RCW 28C.18.060.

(2) The advisory council on adult education shall consist of nine members as required by federal law, appointed by the governor. In making these appointments, to the maximum extent feasible, the governor shall give consideration to providing overlapping membership with the membership of the state job training coordinating council, and the governor shall give consideration to individuals with expertise and experience in adult basic education.

(3) The work force training and education coordinating board shall monitor the need for the council as described in subsection (1) of this section, and, if that need no longer exists, propose legislation to terminate the council. [1991 c 238 § 19.]

**28B.50.256 Facilities shared by vocational-technical institute programs and K-12 programs.** If, before September 1, 1991, the use of a single building facility is being shared between an existing vocational-technical institute program and a K-12 program, the respective boards shall continue to share the use of the facility until such time as it is convenient to remove one of the two programs to another facility. The determination of convenience shall be based solely upon the best interests of the students involved.

If a vocational-technical institute district board and a common school district board are sharing the use of a single facility, the program occupying the majority of the space of such facility, exclusive of space utilized equally by both, shall determine which board will be charged with the administration and control of such facility. The determination of occupancy shall be based upon the space occupied as of January 1, 1990.

The board charged with the administration and control of such facility may share expenses with the other board for the use of the facility.

In the event that the two boards are unable to agree upon which board is to administer and control the facility or upon a fair share of expenses for the use of the facility, the governor shall appoint an arbitrator to settle the matter. The decisions of the arbitrator shall be final and binding upon both boards. The expenses of the arbitration shall be divided equally by each board. [1991 c 238 § 132.]

**28B.50.258 Training in timber impact areas.** To the extent that funds are specifically appropriated therefor, the \*state board for community college education shall provide training and retraining in timber impact areas as follows:

(1) Disbursement of funds to individual community colleges for supplemental slots in cases where enrollment demand exceeds allocation;

(2) Pilot projects for innovative approaches to literacy and employment training. Pilot projects may include, but are not limited to:

(a) Training for cranberry industry research, coordinated by the Washington State University coastal research unit, Long Beach;

(b) Training through Grays Harbor Community College for dislocated forest products workers to fill positions as safety training and vessel inspectors. They shall contract with those organizations deemed appropriate to carry out this program;

(c) Training through Skagit Valley Community College for dislocated forest products workers in natural resources technical programs in stream enhancement, including waters upstream or downstream as well as adjacent to state lands; water quality enhancement; irrigation repair; and the building of shellfish beds;

(d) Training for agricultural development, diversification, marketing, and processing programs in timber impact areas.

Nothing in subsection (2) of this section shall be construed to provide priority for the projects listed in subsection (2) of this section.

For the purposes of this section, the number of full-time equivalent students to be served during any biennium shall be determined by the applicable omnibus appropriations act and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act. [1991 c 315 § 16.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.50.259 Program for dislocated forest products workers—Tuition and fee waiver.** (1) The \*state board for community college education shall administer a program designed to provide higher education opportunities to dislocated forest products workers and their unemployed spouses who are enrolled in a community or technical college for ten or more credit hours per quarter. In administering the program, the college board shall have the following powers and duties:

(a) With the assistance of an advisory committee, design a procedure for selecting dislocated forest products workers to participate in the program;

(b) Allocate funding to community and technical colleges attended by participants;

(c) Monitor the program and report on participants' progress and outcomes; and

(d) Report to the legislature by December 1, 1993, on the status of the program.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) The boards of trustees of the community and technical colleges shall waive tuition and fees for program participants, for a maximum of six quarters within a two-year period.

(4) During any biennium, the number of full-time equivalent students to be served in this program shall be determined by the applicable omnibus appropriations act, and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act. [1991 c 315 § 17.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.50.300 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.50.301 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to district board—Exceptions.** Title to or all interest in real estate, choses in action and all other assets, and liabilities including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institutes [institute] purposes or postsecondary vocational educational purposes, or used or obtained

with funds budgeted for postsecondary vocational educational purposes, or used or obtained primarily for vocational-technical institute educational purposes, shall, on the date on which the first board of trustees of each district takes office, vest in or be assigned to the district board. Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after February 2, 1992, an asset of the school district. Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes. Unexpended funds of a common school district derived from the sale, before September 1, 1991, of bonds authorized for any purpose which includes vocational-technical institute purposes and not committed for any existing construction contract, shall remain with and continue to be an asset of such common school district, unless within thirty days after said date such common school district determines to transfer such funds to the board of trustees. [1991 c 238 § 115.]

**28B.50.302 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to state board for community and technical colleges—Exceptions.** Title to or all interest in real estate, choses in action, and all other assets and liabilities, including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institute purposes or postsecondary vocational educational purposes, or used or obtained with funds budgeted for vocational-technical institute purposes or postsecondary vocational education purposes, or used or obtained primarily for vocational education purposes, and all liabilities including, but not limited to court claims incurred on behalf of a vocational-technical institute by a school district, shall, on the date on which the first board of trustees of each college district takes office, vest in or be assigned to the state board for community and technical colleges. Grounds that have been used primarily as a playground for children shall continue to be made available for such use.

Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after September 1, 1991, an asset of the school district.

Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes.

Unexpended funds of a common school district derived from the sale of bonds issued for vocational-technical institute capital purposes and not committed for any existing construction contract, shall be transferred to the college district of which the institute is a part for application to such projects.

For the purposes of this section and to facilitate the process of allocating the assets, the board of directors of each school district in which a vocational-technical institute is located, and the director of each vocational-technical institute, shall each submit to the state board of education, and the state board for community and technical colleges within ninety days of September 1, 1991, an inventory listing all real estate, personal property, choses in action, and other assets, held by a school district which, under the criteria of this section, will become the assets of the state board for community and technical colleges.

However, assets used primarily for vocational-technical institute purposes shall include, but not be limited to, all assets currently held by school districts which have been used on an average of at least seventy-five percent of the time during the 1989-90 school year, or if acquired subsequent to July 1, 1990, since its time of acquisition, for vocational-technical institute purposes, except that facilities used during school construction and remodeling periods to house vocational-technical institute programs temporarily and facilities that were vacated by the vocational-technical institute and returned to the school district during 1990-91 are not subject to this requirement.

The ultimate decision and approval with respect to the allocation and dispositions of the assets and liabilities including court claims under this section shall be made by a task force appointed by the governor in consultation with the superintendent of public instruction and the state board for community and technical colleges. Any issues remaining in dispute shall be settled by the governor or the governor's designee. The decision of the governor, the governor's designee, or the task force may be appealed within sixty days after such decision is issued by appealing to the district court of Thurston county. The decision of the superior court may be appealed to the supreme court of the state in accordance with the provision[s] of the administrative procedure act, chapter 34.05 RCW. [1991 c 238 § 131.]

**28B.50.305 Seattle Vocational Institute—Findings.** The legislature finds that a vocational institute in the central area of the city of Seattle provides civic, social, and economic benefits to the people of the state of Washington. Economic development is enhanced by increasing the number of skilled individuals who enter the labor market and social welfare costs are reduced by the

training of individuals lacking marketable skills. The students at the institute are historically economically disadvantaged, and include racial and ethnic minorities, recent immigrants, single-parent heads of households, and persons who are dislocated workers or without specific occupational skills. The institute presents a unique opportunity for business, labor, and community-based organizations, and educators to work together to provide effective vocational-technical training to the economically disadvantaged of urban Seattle, and to serve as a national model of such cooperation. Moreover, a trained work force is a major factor in attracting new employers, and with greater minority participation in the work force, the institute is uniquely located to deliver training and education to the individuals employers must increasingly turn to for their future workers. [1991 c 238 § 93.]

**Contingency**—1991 c 238 §§ 93-101, 156: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided for sections 93 through 101 and 156 of this act by June 30, 1993, in the omnibus appropriations act, sections 93 through 101 and 156 of this act shall be null and void." [1991 c 238 § 165.]

**28B.50.306 Seattle Vocational Institute—Mission—Advisory committee to advise.** The mission of the institute shall be to provide occupational, basic skills, and literacy education opportunities to economically disadvantaged populations in urban areas of the college district it serves. The mission shall be achieved primarily through open-entry, open-exit, short-term, competency-based basic skill, and job training programs targeted primarily to adults. The board of trustees of the sixth college district shall appoint a nine-member advisory committee consisting of equal representation from business, labor, and community representatives to provide advice and counsel to the administration of the institute and the district administration. [1991 c 238 § 100.]

**Contingency**—1991 c 238 §§ 93-101, 156: See note following RCW 28B.50.305.

**28B.50.307 Seattle Vocational Institute—Funding.** Funding for the institute shall be included in a separate allocation to the sixth college district, and funds allocated for the institute shall be used only for purposes of the institute. [1991 c 238 § 101.]

**Contingency**—1991 c 238 §§ 93-101, 156: See note following RCW 28B.50.305.

**28B.50.320 Fees and other income—Deposit—Disbursement.** All operating fees, services and activities fees, and all other income which the trustees are authorized to impose shall be deposited as the trustees may direct unless otherwise provided by law. Such sums of money shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the trustees shall conform to the collateral requirements required for deposit of other state funds.

Disbursement shall be made by check signed by the president of the college or the president's designee appointed in writing, and such other person as may be

designated by the board of trustees of the college district. Each person authorized to sign as provided above, shall execute a surety bond as provided in RCW 43.17-.100. Said bond or bonds shall be filed in the office of the secretary of state. [1991 c 238 § 47; 1971 ex.s. c 279 § 17; 1970 ex.s. c 59 § 4; 1969 ex.s. c 238 § 5; 1969 ex.s. c 223 § 28B.50.320. Prior: 1967 ex.s. c 8 § 32.]

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

**Severability**—1970 ex.s. c 59: See note following RCW 28B.15.520.

**28B.50.327 Collection of student tuition and fees—Seattle Vocational Institute.** Notwithstanding the provisions of chapter 28B.15 RCW, technical colleges and the Seattle Vocational Institute may continue to collect student tuition and fees per their standard operating procedures in effect on September 1, 1991. The applicability of existing community college rules and statutes pursuant to chapter 28B.15 RCW regarding tuition and fees shall be determined by the state board for community and technical colleges within two years of September 1, 1991. [1991 c 238 § 84.]

**28B.50.328 Waivers of tuition and fees—Scholarships—Employment of instructional staff and faculty—Seattle Vocational Institute.** The district may provide for waivers of tuition and fees and provide scholarships for students at the institute. The district may negotiate with applicable public or private service providers to conduct the instructional activities of the institute. The district may employ instructional staff or faculty. The district may also contract with private individuals for instructional services. Until at least July 1, 1993, all faculty and staff serve at the pleasure of the district. In order to allow the district flexibility in its personnel policies with the institute, the district and the institute, with reference to employees of the institute employed during an initial two-year period until July 1, 1993, are exempt from chapters 28B.16, 28B.52 (relating to collective bargaining), 41.04, 41.05, 41.06, and 41.40 RCW; from RCW 43.01.040 through 43.01.044; and from RCW 28B.50.551 and 28B.50.850 through 28B.50.875 (relating to faculty tenure). [1991 c 238 § 103.]

**28B.50.330 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by revenue bonds—Bid procedure.** The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as

the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds fifteen thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That any project regardless of dollar amount may be put to public bid.

Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than five thousand dollars, the publication requirements of RCW 39.04.020 and 39.04.070 shall be inapplicable. [1991 c 238 § 48; 1979 ex.s. c 12 § 2; 1969 ex.s. c 223 § 28B.50.330. Prior: 1967 ex.s. c 8 § 33. Formerly RCW 28.85.330.]

**Severability**—1979 ex.s. c 12: See note following RCW 28B.10.350.

**28B.50.340 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by bonds secured by pledge of building fees, grants.** In addition to the powers conferred under RCW 28B.50.090, the college board is authorized and shall have the power:

(1) To permit the district boards of trustees to contract for the construction, reconstruction, erection, equipping, maintenance, demolition and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances of the college as approved by the state board.

(2) To finance the same by the issuance of bonds secured by the pledge of up to one hundred percent of the building fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects.

(4) To retain bond counsel and professional bond consultants to aid in issuing bonds pursuant to RCW 28B.50.340 through 28B.50.400. [1991 c 238 § 49; 1985 c 390 § 54; 1971 ex.s. c 279 § 18; 1970 ex.s. c 15 § 18. Prior: 1969 ex.s. c 261 § 26; 1969 ex.s. c 238 § 6; 1969 ex.s. c 223 § 28B.50.340; prior: 1967 ex.s. c 8 § 34.]

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**28B.50.350 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Requirements.** For the purpose of financing the cost of any projects, the college board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the

bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute:

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the college or of the college board;

(2) Shall be:

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the college board with the manual or facsimile signature of the chairman of the board, attested by the secretary of the board, have the seal of the college board impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state:

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund created for retirement thereof;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.50.330 through 28B.50.400, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(b) A covenant that sufficient moneys may be transferred from the capital projects account of the college board issuing the bonds to the bond retirement fund of the college board when ordered by the board in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(c) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the college board and shall be used solely for paying the costs of the projects, the costs of bond counsel and professional bond consultants incurred in issuing the bonds, and for the purposes set forth in subsection (8)(b) of this section;

(9) Shall constitute a prior lien and charge against the building fees of the community and technical colleges. [1991 c 238 § 50; 1985 c 390 § 55; 1971 ex.s. c 279 § 19; 1971 c 8 § 2; 1970 ex.s. c 59 § 2; 1970 ex.s. c 56 § 32; 1970 ex.s. c 15 § 19; 1969 ex.s. c 261 § 27; 1969 ex.s. c 232 § 106; 1969 ex.s. c 223 § 28B.50.350. Prior: 1967 ex.s. c 8 § 35.]

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

**Severability**—1970 ex.s. c 59: See note following RCW 28B.15.520.

**Purpose**—1970 ex.s. c 56: See note following RCW 39.52.020.

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

**Validation**—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

**28B.50.360 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Community and technical college capital projects account—Disposition of building fees.** Within thirty-five days from the date of start of each quarter all building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds

payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, at such time as all outstanding building bonds of the college board payable from the community and technical college capital projects account have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community and technical college capital projects account, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all building fees of the community and technical colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community and technical college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the community and technical college capital projects account and shall determine the amount required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such college building bonds from some source other than the community and technical college capital projects account or as pledging the general credit of the state to the payment of such bonds. [1991 1st sp.s. c 13 §§ 47, 48; 1991 c 238 § 51. Prior: 1985 c 390 § 56; 1985 c 57 § 16; 1974 ex.s. c 112 § 4; 1971 ex.s. c 279 § 20; 1970 ex.s. c 15 § 20; prior: 1969 ex.s. c 261 § 28; 1969 ex.s. c 238 § 7; 1969 ex.s. c 223 § 28B.50.360; prior: 1967 ex.s. c 8 § 36.]

**Effective dates**—Severability—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Effective date**—1985 c 57: See note following RCW 18.04.105.

**Severability**—1974 ex.s. c 112: See note following RCW 28B.50.403.

**Severability**—1971 ex.s. c 279: See note following RCW 28B.15.005.

**Severability**—1970 ex.s. c 15: See note following RCW 28A.230.160.

*Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.*

**28B.50.370 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Sources for payment of principal and interest on—Funds credited to bond retirement fund—Pledge to collect building fees.** For the purpose of paying and securing the payment of the principal of and interest on the bonds as

the same shall become due, there shall be paid into the state treasury and credited to the bond retirement fund of the college board, the following:

(1) Amounts derived from building fees as are necessary to pay the principal of and interest on the bonds and to secure the same;

(2) Any grants which may be made, or may become available for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the college board shall charge and collect building fees as established by this chapter and deposit such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding. [1991 c 238 § 52; 1985 c 390 § 57; 1971 ex.s. c 279 § 21; 1969 ex.s. c 238 § 8; 1969 ex.s. c 223 § 28B.50.370. Prior: 1967 ex.s. c 8 § 37.]

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

*Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.*

**28B.50.402 Transfer of moneys in community and technical college bond retirement fund to state general fund—Exception.** Notwithstanding anything to the contrary contained in RCW 28B.50.360 (1) and (2) and in RCW 28B.50.370, all moneys on deposit on or before June 30, 1977, in the community and technical college bond retirement fund, shall be transferred by the state treasurer to the state general fund, except for those moneys appropriated by section 17, chapter 1, Laws of 1977. [1991 c 238 § 53; 1977 ex.s. c 223 § 2.]

**Severability—1977 ex.s. c 223:** See note following RCW 28B.50.401.

**28B.50.404 Refunding bonds—Issuance—Security.** Subject to the specific provisions of RCW 28B.50.360 and 28B.50.403 through 28B.50.407, such general obligation refunding bonds shall be issued and the refunding of said community and technical college building bonds shall be carried out pursuant to chapters 39.42 and 39.53 RCW as now or hereafter amended. The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise of the state to pay the principal thereof and interest thereon when due. [1991 c 238 § 54; 1985 c 390 § 60; 1974 ex.s. c 112 § 2.]

**Severability—1974 ex.s. c 112:** See note following RCW 28B.50.403.

**28B.50.405 Refunding bonds—Community and technical college refunding bond retirement fund of 1974.**

There is hereby created in the state treasury the community and technical college refunding bond retirement fund of 1974, which fund shall be exclusively devoted to the payment of the principal of and interest on the refunding bonds authorized by RCW 28B.50.360 and 28B.50.403 through 28B.50.407.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to pay the principal of and interest on such bonds. On July 1st of each year the state treasurer shall deposit such amount in the refunding bond retirement fund of 1974 from any general state revenues received in the state treasury. [1991 c 238 § 55; 1974 ex.s. c 112 § 3.]

**Severability—1974 ex.s. c 112:** See note following RCW 28B.50.403.

**28B.50.409 Bonds—Committee advice and consent prerequisite to issuance.** All bonds issued after February 16, 1974 by the college board or any board of trustees for any college district under provisions of chapter 28B.50 RCW, as now or hereafter amended, shall be issued by such boards only upon the prior advice and consent of the state finance committee. [1991 c 238 § 56; 1974 ex.s. c 112 § 7.]

**Severability—1974 ex.s. c 112:** See note following RCW 28B.50.403.

**28B.50.455 Vocational education of individuals with disabilities—Procedures.** Each technical college shall have written procedures which include provisions for the vocational education of individuals with disabilities. These written procedures shall include a plan to provide services to individuals with disabilities, a written plan of how the technical college will comply with relevant state and federal requirements for providing vocational education to individuals with disabilities, a written plan of how the technical college will provide on-site appropriate instructional support staff in compliance with P.L. 94-142, and as since amended, and section 504 of the rehabilitation act of 1973, and as thereafter amended. [1991 c 238 § 158.]

**28B.50.482 Accumulated sick leave—Transferred employees of vocational-technical institutes.** Sick leave accumulated by employees of vocational-technical institutes shall be transferred to the college districts without loss of time subject to the provisions of RCW 28B.50.551 and the further provisions of any negotiated agreements then in force. [1991 c 238 § 136.]

**28B.50.484 Health care service contracts—Transferred employees of vocational-technical institutes.** The state employees' benefit board shall adopt rules to preclude any preexisting conditions or limitations in existing health care service contracts for school district employees at vocational-technical institutes transferred to the state board for community and technical colleges. The board shall also provide for the disposition of any dividends or refundable reserves in the school district's

health care service contracts applicable to vocational-technical institute employees. [1991 c 238 § 137.]

**28B.50.520 Federal funds, receipt of authorized.** The college board or any board of trustees is authorized to receive federal funds made available for the assistance of community and technical colleges, and providing physical facilities, maintenance or operation of schools, or for any educational purposes, according to the provisions of the acts of congress making such funds available. [1991 c 238 § 57; 1969 ex.s. c 223 § 28B.50.520. Prior: 1967 ex.s. c 8 § 52. Formerly RCW 28.85.520.]

*Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds: RCW 28B.50.440.*

**28B.50.522 Office for adult literacy.** The college board personnel administering state and federally funded programs for adult basic skills and literacy education shall be known as the state office for adult literacy. [1991 c 238 § 92.]

**28B.50.528 Contracts with adjacent college district for administrative services.** If a technical college is created after September 1, 1991, that college may contract with an adjacent college district for administrative services until such time that an existing or new college district may assume jurisdiction over the college. [1991 c 238 § 139.]

**28B.50.533 Contracts with common school districts for occupational and academic programs for high school students—Enrollment opportunities—Interlocal agreements.** Community and technical colleges may contract with local common school districts to provide occupational and academic programs for high school students. Common school districts whose students currently attend vocational-technical institutes shall not suffer loss of opportunity to continue to enroll their students at technical colleges.

For the purposes of this section, "opportunity to enroll" includes, but is not limited to, the opportunity of common school districts to enroll the same number of high school students enrolled at each vocational-technical institute during the period July 1, 1989, through June 30, 1990, and the opportunity for common school districts to increase enrollments of high school students at each technical college in proportion to annual increases in enrollment within the school districts participating on September 1, 1991. Technical colleges shall offer programs which are accessible to high school students to at least the extent that existed during the period July 1, 1989, through June 30, 1990, and to the extent necessary to accommodate proportional annual growth in enrollments of high school students within school districts participating on September 1, 1991. Accommodating such annual increases in enrollment or program offerings shall be the first priority within technical colleges subject to any enrollment or budgetary restrictions. Technical colleges shall not charge tuition or student

services and activities fees to high school students enrolled in the college.

Technical colleges may enter into interlocal agreements with local school districts to provide instruction in courses required for high school graduation, basic skills, and literacy training for students enrolled in technical college programs. [1991 c 238 § 82.]

**28B.50.535 Community or technical college may issue high school diploma or certificate, limitation.** A community or technical college may issue a high school diploma or certificate, subject to rules and regulations promulgated by the superintendent of public instruction and the state board of education. [1991 c 238 § 58; 1969 ex.s. c 261 § 30.]

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**28B.50.551 Leave provisions generally.** The board of trustees of each college district shall adopt for each community and technical college under its jurisdiction written policies on granting leaves to employees of the district and those colleges, including but not limited to leaves for attendance at official or private institutions and conferences; professional leaves for personnel consistent with the provisions of RCW 28B.10.650; leaves for illness, injury, bereavement and emergencies, and except as otherwise in this section provided, all with such compensation as the board of trustees may prescribe, except that the board shall grant to all such persons leave with full compensation for illness, injury, bereavement and emergencies as follows:

(1) For persons under contract to be employed, or otherwise employed, for at least three quarters, not more than twelve days per year, commencing with the first day on which work is to be performed; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(2) Such leave entitlement may be accumulated after the first three-quarter period of employment for full time employees, and may be taken at any time;

(3) Leave for illness, injury, bereavement and emergencies heretofore accumulated pursuant to law, rule, regulation or policy by persons presently employed by college districts and community and technical colleges shall be added to such leave accumulated under this section;

(4) Except as otherwise provided in this section or other law, accumulated leave under this section not taken at the time such person retires or ceases to be employed by college districts or community and technical colleges shall not be compensable;

(5) Accumulated leave for illness, injury, bereavement and emergencies under this section shall be transferred from one college district or community and technical college to another, to the college board, to the state superintendent of public instruction, to any educational

service district, to any school district, or to any other institutions of higher learning of the state;

(6) Leave accumulated by a person in a college district or community and technical college prior to leaving that district or college may, under the policy of the board of trustees, be granted to such person when he or she returns to the employment of that district or college; and

(7) Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 59; 1980 c 182 § 3; 1977 ex.s. c 173 § 2; 1975 1st ex.s. c 275 § 148; 1973 c 62 § 22; 1969 ex.s. c 283 § 7. Formerly RCW 28.85.551.]

**Severability**—1980 c 182: See note following RCW 41.04.340.

**Effective date**—**Severability**—1977 ex.s. c 173: See notes following RCW 28B.10.650.

**Savings**—**Severability**—1973 c 62: See notes following RCW 28B.10.510.

**Severability**—1969 ex.s. c 283: See note following RCW 28A.150.050.

**28B.50.600 School district bonds—Redemption of by school district to continue though facility under control of college district board.** Whenever a common school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control and occupancy of the college district board, the common school board shall continue to redeem the bonds in accordance with the provisions of the bonds. [1991 c 238 § 60; 1969 ex.s. c 223 § 28B.50.600. Prior: 1967 ex.s. c 8 § 60. Formerly RCW 28.85.600.]

**28B.50.601 School district bonds—Redemption—Facilities under administration of college district board.** If a school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control, and occupancy of the college district board, the school board shall continue to redeem the bonds in accordance with the provisions of the bonds. [1991 c 238 § 138.]

**28B.50.740 School district bonds—Those issued for community and technical college facilities not considered indebtedness under statutory limitations on.** Notwithstanding any other statutory provision relating to indebtedness of school districts, bonds heretofore issued by any common school district for the purpose of providing funds for community and technical college facilities shall not be considered as indebtedness in determining the maximum allowable indebtedness under any statutory limitation of indebtedness when the sum of all indebtedness therein does not exceed the maximum constitutional allowable indebtedness applied to the value of the taxable property contained in such school district: **PROVIDED**, That nothing contained herein shall be construed to affect the distribution of state funds under any applicable distribution formula. [1991 c 238 § 61; 1969 ex.s. c 223 § 28B.50.740. Prior: 1967 ex.s. c 8 § 74. Formerly RCW 28.85.740.]

*Forty mill limit: State Constitution Art. 7 § 2.*

*Limitation of indebtedness prescribed: RCW 39.36.020.*

*Limitations upon municipal indebtedness: State Constitution Art. 8 § 6.*

**28B.50.835 Exceptional faculty awards—Intent.** The legislature recognizes that quality in the state's community and technical colleges would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public community and technical colleges in creating endowments for funding exceptional faculty awards. [1991 c 238 § 62; 1990 c 29 § 1.]

**Severability**—1990 c 29: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 29 § 8.]

**28B.50.837 Exceptional faculty awards—Established—Community and technical college faculty awards trust fund.** (1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is necessary for the expenditure of moneys from the fund. [1991 1st sp.s. c 13 §§ 108, 109; 1991 c 238 § 63; 1990 c 29 § 2.]

**Effective dates**—**Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**Severability**—1990 c 29: See note following RCW 28B.50.835.

**28B.50.839 Exceptional faculty awards—Guidelines—Matching funds—Donations—Disbursements.** (1) In consultation with eligible community and technical colleges, the college board shall set priorities and guidelines for the program.

(2) Under this section, a college shall not receive more than four faculty grants in twenty-five thousand dollar increments, with a maximum total of one hundred thousand dollars per campus in any biennium.

(3) All community and technical colleges shall be eligible for matching trust funds. Institutions may apply to the college board for grants from the fund in twenty-five thousand dollar increments up to a maximum of one hundred thousand dollars when they can match the state funds with equal cash donations from private sources, except that in the initial year of the program, no college may receive more than one grant until every college has received one grant. These donations shall be made specifically to the exceptional faculty awards program and deposited by the institution in a local endowment fund. Otherwise unrestricted gifts may be deposited in the endowment fund by the institution.

(4) Once sufficient private donations are received by the institution, the institution shall inform the college board and request state matching funds. The college board shall evaluate the request for state matching funds based on program priorities and guidelines. The college board may ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for each faculty award created. [1991 c 238 § 64; 1990 c 29 § 3.]

**Severability—1990 c 29:** See note following RCW 28B.50.835.

**28B.50.841 Exceptional faculty awards—Name of award—Duties of institution—Use of endowment proceeds.** (1) The faculty awards are the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. The institution shall designate the use of the award. The designation shall be made or renewed annually.

(2) The institution is responsible for soliciting private donations, investing and maintaining its endowment funds, administering the faculty awards, and reporting on the program to the governor, the college board, and the legislature, upon request. The institution may augment its endowment fund with additional unrestricted private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to supplement the salary of the holder or holders of a faculty award; or to pay expenses associated with the holder's program area. Funds from this program shall not be used to supplant existing faculty development funds. [1991 c 238 § 65; 1990 c 29 § 4.]

**Severability—1990 c 29:** See note following RCW 28B.50.835.

**28B.50.843 Exceptional faculty awards—Determination of award—Collective bargaining.** The process for determining local awards shall be subject to collective bargaining. Decisions regarding the amounts of individual awards and who receives them shall not be subject to collective bargaining and shall be subject to approval of the applicable board of trustees. [1991 c 238 § 66; 1990 c 29 § 5.]

**Severability—1990 c 29:** See note following RCW 28B.50.835.

**28B.50.850 Faculty tenure—Purpose.** It shall be the purpose of RCW 28B.50.850 through 28B.50.869 to establish a system of faculty tenure which protects the concepts of faculty employment rights and faculty involvement in the protection of those rights in the state system of community and technical colleges. RCW 28B.50.850 through 28B.50.869 shall define a reasonable and orderly process for appointment of faculty members to tenure status and the dismissal of the tenured faculty member.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 67; 1969 ex.s. c 283 § 32. Formerly RCW 28.85.850.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.851 Faculty tenure—Definitions.** As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2)(a) "Faculty appointment", except as otherwise provided in (b) of this subsection, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under RCW 28B.50.859;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in (a) of this subsection, when such employment results from special funds provided to a community college district from federal monies or other special funds which other funds are designated as "special funds" by the college board: PROVIDED, That such "special funds" so designated by the college board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2)(a) of this section who have been subsequently transferred to positions financed from "special funds" pursuant to (b) of this subsection and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2)(a) of this section depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time

which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers or tenured faculty member's peers, a student representative, and the administrative staff of the community or technical college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers or tenured faculty member's peers. [1991 c 294 § 2; 1991 c 238 § 68; 1988 c 32 § 2; 1975 1st ex.s. c 112 § 1; 1974 ex.s. c 33 § 1; 1970 ex.s. c 5 § 3; 1969 ex.s. c 283 § 33. Formerly RCW 28.85.851.]

**Reviser's note:** This section was amended by 1991 c 238 § 68 and by 1991 c 294 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—1991 c 294:** "Improving the quality of instruction at our state institutions of higher education is a priority of the legislature. Recently, many efforts have been made by the legislature, the colleges, and the higher education coordinating board to assess and improve the quality of instruction received by students at our state institutions. It is the intent of the legislature that, in conjunction with these various efforts, the process for the award of faculty tenure at community colleges should allow for a thorough review of the performance of faculty appointees prior to the granting of tenure." [1991 c 294 § 1.]

**Construction—1991 c 294:** "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1991 c 294 § 6.]

**Effective date—Application—1991 c 294:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991, and shall apply to all faculty appointments made by community colleges after June 30, 1991, but shall not apply to employees of community colleges who hold faculty appointments prior to July 1, 1991." [1991 c 294 § 7.]

**Severability—1991 c 294:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 294 § 8.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.852 Faculty tenure—Rules and regulations—Award of faculty tenure—Maximum probationary period.** The appointing authority shall promulgate rules and regulations implementing RCW 28B.50.850 through 28B.50.869 and shall provide for the award of faculty tenure following a probationary period not to exceed nine consecutive college quarters, excluding summer quarter and approved leaves of absence: PROVIDED, That tenure may be awarded at any time as may be determined by the appointing authority after it has given reasonable consideration to the recommendations of the review committee. Upon formal recommendation of the review committee and with the written consent of the probationary faculty member, the appointing authority may extend its probationary period

for one, two, or three quarters, excluding summer quarter, beyond the maximum probationary period established herein. No such extension shall be made, however, unless the review committee's recommendation is based on its belief that the probationary faculty member needs additional time to complete satisfactorily a professional improvement plan already in progress and in the committee's further belief that the probationary faculty member will complete the plan satisfactorily. At the conclusion of any such extension, the appointing authority may award tenure unless the probationary faculty member has, in the judgment of the committee, failed to complete the professional improvement plan satisfactorily. [1991 c 294 § 3; 1969 ex.s. c 283 § 34. Formerly RCW 28.85.852.]

**Intent—Construction—Effective date, application—Severability—1991 c 294:** See notes following RCW 28B.50.851.

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.857 Faculty tenure—Decision not to renew probationary appointment, notice by appointing authority, when.** Upon the decision not to renew a probationary faculty appointment, the appointing authority shall notify the probationer of such decision as soon as possible during the regular college year: PROVIDED, That such notice may not be given later than one complete quarter, except summer quarter, before the expiration of the probationary faculty appointment. [1991 c 294 § 4; 1969 ex.s. c 283 § 37. Formerly RCW 28.85.857.]

**Intent—Construction—Effective date, application—Severability—1991 c 294:** See notes following RCW 28B.50.851.

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.858 Faculty tenure—Performance review and evaluation—Performance improvement plan—Revocation of tenure.** (1) The effectiveness and performance of each tenured faculty member of a community college shall be reviewed and formally evaluated by a review committee at least once every fifteen regular college quarters in which the tenured faculty [faculty] member is employed by the community college. The size, composition, and duties of the review committee defined in RCW 28B.50.851(7) may be altered for the purposes of this section with the mutual consent of the exclusive bargaining agent and the appointing authority.

(2) If, after the review conducted pursuant to subsection (1) of this section, the performance of the tenured faculty member is judged to be unsatisfactory by the review committee, the tenured faculty member may be required by the appointing authority to implement a performance improvement plan for a period of no more than three regular college quarters, not including summer quarter.

(3) If, after the three quarter period in subsection (2) of this section, the tenured faculty member's performance is deemed to be unsatisfactory by the review committee, the appointing authority may revoke tenure and return the faculty member to a probationary faculty appointment. The appointing authority shall ensure due

process for tenured faculty members in the decision to return any member to a probationary faculty appointment.

(4) The provisions of subsections (2) and (3) of this section are in addition to any tenure revocation procedures established pursuant to chapter 28B.52 RCW.

(5) The procedures, criteria, and conditions implementing this section are subject to negotiations between the appointing authority and the faculty's exclusive bargaining representative. [1991 c 294 § 5.]

**Intent—Construction—Effective date, application—Severability—1991 c 294:** See notes following RCW 28B.50.851.

**28B.50.867 Faculty tenure—Tenure rights upon transfer of employment to another community or technical college.** Upon transfer of employment from one community or technical college to another community or technical college within a district, a tenured faculty member shall have the right to retain tenure and the rights accruing thereto which he or she had in his or her previous employment: PROVIDED, That upon permanent transfer of employment to another college district a tenured faculty member shall not have the right to retain his tenure or any of the rights accruing thereto. [1991 c 238 § 69; 1969 ex.s. c 283 § 43. Formerly RCW 28.85.867.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.869 Faculty tenure—Review committees, composition—Selection of teaching faculty representatives, student representative.** The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff, a student representative, and the teaching faculty. The representatives of the teaching faculty shall represent a majority of the members on each review committee. The members representing the teaching faculty on each review committee shall be selected by a majority of the teaching faculty and faculty department heads acting in a body. The student representative, who shall be a full time student, shall be chosen by the student association of the particular community or technical college in such manner as the members thereof shall determine. [1991 c 238 § 70; 1974 ex.s. c 33 § 2; 1969 ex.s. c 283 § 45. Formerly RCW 28.85.869.]

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.870 Faculty tenure—For certain educational programs operated in state correctional institutions.** The district board of trustees of any college district currently operating an educational program with funds provided by another state agency, including federal funds, which program has been in existence for five or more years under the administration of one or more college districts, shall provide for the award or denial of tenure to anyone who holds a special faculty appointment in such curricular program and for as long as the program continues to be funded in such manner, utilizing the prescribed probationary processes and procedures

set forth in this chapter with the exception that no student representative shall be required to serve on the review committee defined in RCW 28B.50.851: PROVIDED, That such review processes and procedures shall not be applicable to faculty members whose contracts are renewed after \*the effective date of this 1977 amendatory act and who have completed at least three consecutive years of satisfactory full time service in such program, who shall be granted tenure by the college district: PROVIDED FURTHER, That faculty members who have completed one year or more of satisfactory full time service in such program shall be credited with such service for the purposes of this section: PROVIDED, FURTHER, That provisions relating to tenure for faculty under the provisions of this section shall be distinct from provisions relating to tenure for other faculty of the college district and faculty appointed to such special curricular program shall be treated as a separate unit as respects selection, retention, reduction in force or dismissal hereunder: AND PROVIDED FURTHER, That the provisions of this section shall only be applicable to faculty holding a special faculty appointment in an educational program operated in a state correctional institution pursuant to a written contract with a college district. [1991 c 238 § 71; 1977 ex.s. c 282 § 1.]

**\*Reviser's note:** Phrase "the effective date of this 1977 amendatory act": Except for RCW 28B.50.100 and 28B.50.101 which were effective January 1, 1978, (see note following RCW 28B.50.100) the effective date of 1977 ex.s. c 282 (the enactment of RCW 28B.50.870, 28B.50.090, 28B.50.140, 28B.50.300, 28B.50.860 and the repeal of RCW 28B.50.570, 28B.50.590, 28B.50.750 and 28B.56.060) was September 21, 1977.

**Severability—1977 ex.s. c 282:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 282 § 10.]

**28B.50.873 Reduction in force of tenured or probationary faculty members due to financial emergency—Conditions—Procedure—Rights.** The college board may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to \*RCW 43.88.110(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue to be determined shall be whether

under the applicable policies, rules or collective bargaining agreement the particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW 28B.50.863 may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

The hearing required by this section shall be an adjudicative proceeding pursuant to chapter 34.05 RCW, the Administrative Procedure Act, conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW 28A.405.310(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: PROVIDED, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: PROVIDED FURTHER, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community or technical college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW 28B.52.035, to

modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: PROVIDED, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW 28B.50.857. [1991 c 238 § 72; 1990 c 33 § 559; 1989 c 175 § 81; 1981 2nd ex.s. c 13 § 1.]

\*Reviser's note: RCW 43.88.110(2) was renumbered as RCW 43.88.110(3) by 1991 c 358 § 2.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1981 2nd ex.s. c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 13 § 3.]

**28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges—Personnel rights.** When the state system of community and technical colleges assumes administrative control of the vocational-technical institutes, personnel employed by the vocational-technical institutes shall:

(1) Suffer no reduction in compensation, benefits, seniority, or employment status. After September 1, 1991, classified employees shall continue to be covered by chapter 41.56 RCW and faculty members and administrators shall be covered by chapter 28B.50 RCW;

(2) To the extent applicable to faculty members, any faculty currently employed on a "continuing contract" basis under RCW 28A.405.210 be awarded tenure pursuant to RCW 28B.50.851 through 28B.50.873, except for any faculty members who are provisional employees under RCW 28A.405.220;

(3) Be eligible to participate in the health care and other insurance plans provided by the health care authority and the state employee benefits board pursuant to chapter 41.05 RCW;

(4) Be eligible to participate in old age annuities or retirement income plans under the rules of the state board for community and technical colleges pursuant to RCW 28B.10.400 or the teachers' retirement system plan I for personnel employed before July 1, 1977, or plan II for personnel employed after July 1, 1977, under chapter 41.32 RCW; however, no affected vocational-technical institute employee shall be required to choose from among any available retirement plan options prior to six months after September 1, 1991;

(5) Have transferred to their new administrative college district all accrued sick and vacation leave and thereafter shall earn and use all such leave under the rule established pursuant to RCW 28B.50.551;

(6) Be eligible to participate in the deferred compensation plan pursuant to RCW 41.04.250 and the dependent care program pursuant to RCW 41.04.600 under the rules established by the state deferred compensation committee.

An exclusive bargaining representative certified to represent a bargaining unit covering employees of a vocational technical institute on September 1, 1991, shall remain the exclusive representative of such employees thereafter until and unless such representative is replaced or decertified in accordance with state law.

Any collective bargaining agreement in effect on June 30, 1991, shall remain in effect as it applies to employees of vocational technical institutes until its expiration or renewal date or until renegotiated or renewed in accordance with chapter 28B.52 or 41.56 RCW. After the expiration date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement, as it applies to employees of vocational-technical institutes, shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. The board of trustees and the employees may mutually agree to continue the terms and conditions of the agreement beyond the one year extension. However, nothing in this section shall be construed to deny any employee right granted under chapter 28B.52 or 41.56 RCW. Labor relations processes and agreements covering faculty members of vocational technical institutes after September 1, 1991, shall be governed by chapter 28B.52 RCW. Labor relations processes and agreements covering classified employees of vocational technical institutes after September 1, 1991, shall continue to be governed by chapter 41.56 RCW. [1991 c 238 § 83.]

**28B.50.875 Laboratory services for the analyzing of samples, public agencies may contract with college for.** Local law enforcement agencies or such other public agencies that shall be in need of such service may contract with any community or technical college for laboratory services for the analyzing of samples that chemists associated with such colleges may be able to perform under such terms and conditions as the individual college may determine.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 73; 1969 ex.s. c 261 § 35. Formerly RCW 28.85.875.]

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**28B.50.877 Technical colleges—Purchase of support services from school districts.** During the period from May 17, 1991, until September 1, 1991:

(1) The executive director of the state board for community and technical colleges, or the executive director's designee, may enter into contracts, or agreements for goods, services, and personnel, on behalf of the technical college, which are effective after September 1, 1991. The executive director, or the executive director's designee, may conduct business, including budget approval,

relevant to the operation of the technical college in the period subsequent to September 1, 1991.

(2) Vocational-technical institute directors may conduct business relevant to the operation of the vocational-technical institutes. School boards and superintendents may not restrict or remove powers previously delegated to the vocational-technical institute directors during the 1990-91 school year.

(3) Technical colleges' boards of trustees appointed before September 1, 1991, shall serve in an advisory capacity to the vocational-technical institute director.

As of September 1, 1991, technical colleges may, by interlocal agreement, continue to purchase from the school districts, support services within mutually agreed upon categories at a cost not to exceed the indirect rate charged during the 1990-91 school year. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302. [1991 c 238 § 143.]

**28B.50.880 Apprentices—Related and supplemental instruction—Training of teachers and coordinators.** Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of the state board for community and technical colleges and its local community and technical colleges. [1991 c 238 § 111.]

**28B.50.900 Evaluation of merger of technical and community colleges—Report.** By December 1, 1996, the state board shall complete a report evaluating successes and difficulties associated with the merger of the technical and community colleges into one system. The evaluation shall include but need not be limited to consideration of all local governance models for technical colleges. The state board shall provide the report, and any recommendations, including recommendations for revisions to local governance models, to the governor, the house and senate committees on higher education, and the work force training and education coordinating board. [1991 c 238 § 29.]

**28B.50.912 Transfer of powers from superintendent of public instruction and state board of education to state board for community and technical colleges.** All powers, duties, and functions of the superintendent of public instruction and the state board of education pertaining to projects of adult education, including the state-funded Even Start and including the adult education programs operated pursuant to 20 U.S.C. Sec. 1201 as amended by P.L. 100-297, are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction or the state board of education in the Revised Code of Washington shall be construed to mean the director or the state board for community and technical colleges

when referring to the functions transferred in this section. [1991 c 238 § 85.]

**28B.50.913 Transfer of powers from Washington institute for applied technology to Seattle Vocational Institute.** The public nonprofit corporation for the Washington institute for applied technology is hereby abolished and its powers, duties, and functions are hereby transferred to the sixth college district. The Washington institute for applied technology shall be renamed the Seattle Vocational Institute. The Seattle Vocational Institute shall become a fourth unit of the sixth college district. All references to the director or public nonprofit corporation for the Washington institute for applied technology in the Revised Code of Washington shall be construed to mean the director of the Seattle Vocational Institute. [1991 c 238 § 94.]

**Contingency—1991 c 238 §§ 93-101, 156:** See note following RCW 28B.50.305.

**28B.50.914 Transfer of powers from school districts to state board for community and technical colleges.** All powers, duties, and functions of the school district pertaining to a vocational-technical institute are transferred to the state board for community and technical colleges until the establishment of local boards of trustees with authority for the technical college. All references to the director or school district in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section. [1991 c 238 § 116.]

**28B.50.915 Transfer of powers from superintendent of public instruction to state board for community and technical colleges.** All powers, duties, and functions of the superintendent of public instruction pertaining to vocational-technical institutes are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section. [1991 c 238 § 122.]

**28B.50.917 Effective dates—1991 c 238.** Sections 1 through 7, 14 through 19, 24 through 28, 33, 76 through 81, 85 through 111, 114, 140 through 144, and 164 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions.

Sections 33, 114, and 142 through 144 of this act shall take effect immediately.

Sections 1 through 8, 14 through 19, 24 through 28, 76 through 81, 85 through 111, 140, 141, and 164 of this act shall take effect July 1, 1991.

Sections 20 through 23, 29 through 32, 34 through 75, 82 through 84, 112, 113, 115 through 139, and 145 through 158 of this act shall take effect September 1, 1991.

Sections 8 through 13 of this act shall take effect October 1, 1991. [1991 c 238 § 166.]

**28B.50.918 Severability—1991 c 238.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 238 § 167.]

## Chapter 28B.52

### COLLECTIVE BARGAINING—ACADEMIC PERSONNEL IN COMMUNITY COLLEGES

(Formerly: Negotiations by academic personnel—Community college districts)

#### Sections

28B.52.010	Declaration of purpose.
28B.52.020	Definitions.
28B.52.030	Representatives of employee organization—Right to collective bargaining.
28B.52.035	Negotiations reduced to written agreements—Provisions relating to salary increases—Restrictions.
28B.52.050	Academic employee may appear in own behalf.
28B.52.060	Commission—Mediation activities—Other dispute resolution procedures authorized.
28B.52.070	Discrimination prohibited.
28B.52.078	Strikes and lockouts prohibited—Violations—Remedies.
28B.52.090	Prior agreements.
28B.52.200	Scope of chapter—Limitations—When attempts to resolve dispute required.
28B.52.210	Scope of chapter—Community and technical colleges faculty awards trust program.
28B.52.310	Chapter not applicable to employees of Seattle Vocational Institute.

**28B.52.010 Declaration of purpose.** It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the college districts by which they are employed.

It is the purpose of this chapter to promote cooperative efforts by prescribing certain rights and obligations of the employees and employers and by establishing orderly procedures governing the relationship between the employees and their employers which procedures are designed to meet the special requirements and needs of public employment in higher education. It is the intent of this chapter to promote activity that includes the elements of open communication and access to information in a timely manner, with reasonable discussion and interpretation of that information. It is the further intent that such activity shall be characterized by mutual respect, integrity, reasonableness, and a desire on the part of the parties to address and resolve the points of concern. [1991 c 238 § 145; 1987 c 314 § 1; 1971 ex.s. c 196 § 1.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.52.020 Definitions.** As used in this chapter:  
(1) "Employee organization" means any organization which includes as members the academic employees of a

college district and which has as one of its purposes the representation of the employees in their employment relations with the college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(3) "Administrator" means any person employed either full or part time by the college district and who performs administrative functions as at least fifty percent or more of his or her assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules as adopted in accordance with RCW 28B.52.080.

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

(5) "Unfair labor practice" means any unfair labor practice listed in RCW 28B.52.073.

(6) "Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.

(7) "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before July 26, 1987, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

(8) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

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

bargaining. [1991 c 238 § 146; 1987 c 314 § 2; 1975 1st ex.s. c 296 § 12; 1973 1st ex.s. c 205 § 1; 1971 ex.s. c 196 § 2.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Effective date—1975 1st ex.s. c 296 § 12:** See RCW 41.58.901.

**Severability—1973 1st ex.s. c 205:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 205 § 7.]

*Public employment relations commission: Chapter 41.58 RCW.*

**28B.52.030 Representatives of employee organization—Right to collective bargaining.** Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its college district, shall have the right to bargain as defined in RCW 28B.52.020(8). [1991 c 238 § 147; 1987 c 314 § 3; 1973 1st ex.s. c 205 § 2; 1971 ex.s. c 196 § 3.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1973 1st ex.s. c 205:** See note following RCW 28B.52.020.

**28B.52.035 Negotiations reduced to written agreements—Provisions relating to salary increases—Restrictions.** At the conclusion of any negotiation processes as provided for in RCW 28B.52.030, any matter upon which the parties have reached agreement shall be reduced to writing and acted upon in a regular or special meeting of the boards of trustees, and become part of the official proceedings of said board meeting. Provisions of written contracts relating to salary increases shall not exceed the amount or percentage established by the legislature in the appropriations act and allocated to the board of trustees by the state board for community and technical colleges. The length of term of any such agreement shall be for not more than three fiscal years. Any provisions of these agreements pertaining to salary increases will not be binding upon future actions of the legislature. If any provision of a salary increase is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision. [1991 c 238 § 148; 1987 c 314 § 4; 1973 1st ex.s. c 205 § 4.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1973 1st ex.s. c 205:** See note following RCW 28B.52.020.

**28B.52.050 Academic employee may appear in own behalf.** Nothing in this chapter shall prohibit any academic employee from appearing in his or her own behalf on matters relating to his or her employment relations with the college district. [1991 c 238 § 149; 1971 ex.s. c 196 § 4.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.52.060 Commission—Mediation activities—Other dispute resolution procedures authorized.** The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter. [1991 c 238 § 150; 1987 c 314 § 9; 1975 1st ex.s. c 296 § 13; 1973 1st ex.s. c 205 § 3; 1971 ex.s. c 196 § 5.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Effective date—1975 1st ex.s. c 296 § 13:** See RCW 41.58.901.

**Severability—1973 1st ex.s. c 205:** See note following RCW 28B.52.020.

**28B.52.070 Discrimination prohibited.** Boards of trustees of college districts or any administrative officer thereof shall not discriminate against academic employees or applicants for such positions because of their membership or nonmembership in employee organizations or their exercise of other rights under this chapter. [1991 c 238 § 151; 1971 ex.s. c 196 § 6.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.52.078 Strikes and lockouts prohibited—Violations—Remedies.** The right of college faculty to engage in any strike is prohibited. The right of a board of trustees to engage in any lockout is prohibited. Should either a strike or lockout occur, the representative of the faculty or board of trustees may invoke the jurisdiction of the superior court in the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court shall take into consideration not only the elements necessary for injunctive relief but also the purpose and goals of this chapter and any mitigating factors such as the commission of an unfair labor practice by either party. [1991 c 238 § 152; 1987 c 314 § 13.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.52.090 Prior agreements.** Nothing in this chapter shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any college district and any representative of its employees. [1991 c 238 § 153; 1971 ex.s. c 196 § 8.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**28B.52.200 Scope of chapter—Limitations—When attempts to resolve dispute required.** Nothing in chapter 28B.52 RCW as now or hereafter amended shall compel either party to agree to a proposal or to make a concession, nor shall any provision in chapter 28B.52 RCW as now or hereafter amended be construed as limiting or precluding the exercise by each college board of trustees of any powers or duties authorized or provided to it by law unless such exercise is contrary to the terms and conditions of any lawful negotiated agreement, except that other than to extend the terms of a previous contract, a board of trustees shall not take unilateral action on any unresolved issue under negotiation, unless the parties have first participated in good faith mediation or some other procedure as authorized by RCW 28B.52.060 to seek resolution of the issue. [1991 c 238 § 154; 1987 c 314 § 12; 1973 1st ex.s. c 205 § 6.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1973 1st ex.s. c 205:** See note following RCW 28B.52.020.

**28B.52.210 Scope of chapter—Community and technical colleges faculty awards trust program.** With respect to the community and technical colleges faculty awards trust program, the permissible scope of collective bargaining under this chapter shall be governed by RCW 28B.50.843. [1991 c 238 § 155; 1990 c 29 § 6.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1990 c 29:** See note following RCW 28B.50.835.

**28B.52.310 Chapter not applicable to employees of Seattle Vocational Institute.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 109.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

## Chapter 28B.56

### 1972 COMMUNITY COLLEGES FACILITIES AID—BOND ISSUE

#### Sections

28B.56.030 Repealed.

**28B.56.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 28B.57

### 1975 COMMUNITY COLLEGE SPECIAL CAPITAL PROJECTS BOND ACT

#### Sections

28B.57.050 Disposition of proceeds—1975 community college capital construction account, use.

**28B.57.050 Disposition of proceeds—1975 community college capital construction account, use.** The

proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account, hereby created in the state treasury. [1991 1st sp.s. c 13 § 51; 1985 c 57 § 18; 1975 1st ex.s. c 65 § 5.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**Severability—1975 1st ex.s. c 65:** See note following RCW 28B.57.010.

*Disposition of proceeds from sale of bonds and notes—1977 community college capital projects bond act:* RCW 28B.59B.040.

### Chapter 28B.80

#### HIGHER EDUCATION COORDINATING BOARD

(Formerly: Council for postsecondary education in the state of Washington)

##### Sections

28B.80.245	Washington scholars award—Board to award grants.
28B.80.255	Washington award for excellence—Use of academic grant.
28B.80.265	Washington award for excellence—Rules—Waiver of tuition and fees.
28B.80.360	Administrative responsibilities—Report to the legislature.
28B.80.450	Placebound students—Study of needs.
28B.80.530	Repealed.
28B.80.540	Repealed.
28B.80.550	Advisory committee on access to education for students with disabilities.
28B.80.555	Advisory committee—Duties.
28B.80.570	Program for dislocated forest products workers—Definitions.
28B.80.575	Program for dislocated forest products workers—Duties.
28B.80.580	Program for dislocated forest products workers—Placebound students—Tuition and fee waiver.
28B.80.585	Program for dislocated forest products workers—Priority.
28B.80.600	Video telecommunications programming.

**28B.80.245 Washington scholars award—Board to award grants.** (1) Recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 choosing to attend an independent college or university in this state, as defined in subsection (4) of this section, may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants shall be contingent upon the private institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the independent college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for grants for a maximum of twelve quarters or eight semesters of undergraduate study and may transfer among independent colleges and universities during that period and continue to receive the grant. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section. [1990 c 33 § 560; 1988 c 210 § 1.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Application—1988 c 210 § 1:** "RCW 28B.80.245 shall apply to persons holding the Washington scholars award as of June 9, 1988, as well as persons holding the award after June 9, 1988." [1988 c 210 § 3.]

**28B.80.255 Washington award for excellence—Use of academic grant.** (1) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or a private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or vocational-technical institute operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of an accrediting association recognized by the board.

(3) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) The academic grant shall not exceed the current academic year full-time resident graduate tuition and the services and activities fees in effect at the state-funded research universities;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies. [1991 c 255 § 6.]

**28B.80.265 Washington award for excellence—Rules—Waiver of tuition and fees.** (1) The higher education coordinating board shall adopt rules under chapter 34.05 RCW to administer the academic grants awarded under RCW 28A.625.041(2)(a).

(2) The rules adopted by the board shall allow recipients who have begun to use the waiver of tuition and fees under \*RCW 28B.15.547 prior to May 17, 1991, to take the remaining value of the waiver of tuition and fees in the form of the academic grant under RCW 28A.625.041(2)(a). [1991 c 255 § 7.]

\*Reviser's note: RCW 28B.15.547 was repealed by 1991 c 255 § 11.

**28B.80.360 Administrative responsibilities—Report to the legislature.** The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.04 RCW (displaced homemakers); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.10.210 through 28B.10.220

(blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 through 28B.15.076 (educational costs for establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature. [1990 c 33 § 561; 1986 c 136 § 20; 1985 c 370 § 7.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—Effective date—1986 c 136:** See RCW 28B.85.900 and 28B.85.902.

**28B.80.450 Placebound students—Study of needs.** The higher education coordinating board shall study upper division baccalaureate educational needs of placebound students, and the graduate educational needs of teachers, living in areas of the state not currently served by either existing four-year institutions or branch campuses. The study shall include recommendations on how the needs should be addressed, and which institutions should be responsible for serving specific areas. [1990 c 288 § 1.]

**28B.80.530 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.80.540 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.80.550 Advisory committee on access to education for students with disabilities.** The higher education coordinating board shall establish an advisory committee

on access to higher education for students with disabilities. The committee shall include but need not be limited to representation from the following: Students with disabilities, coordinators of services for students with disabilities, the governor's committee on disability issues and employment, and agencies and organizations that work with or represent persons with disabilities. [1991 c 228 § 7.]

**28B.80.555 Advisory committee—Duties.** In consultation with the advisory committee on access to higher education for students with disabilities the board shall:

(1) Inventory existing campus and agency resources available to address the accommodation needs of students with disabilities;

(2) Distribute the inventory to institutions of higher education and to the superintendent of public instruction for further distribution to appropriate personnel in the K-12 system;

(3) Survey institutions of higher education and students with disabilities to identify specific services that have been requested but not provided;

(4) Report the results of the survey, with recommendations on a phased plan to meet identified needs in priority order, to the governor, the house of representatives and senate higher education and fiscal committees, and the institutions of higher education;

(5) In coordination with the \*state board for community college education, conduct a state-wide training workshop for coordinators of services for students with disabilities. [1991 c 228 § 8.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**28B.80.570 Program for dislocated forest products workers—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.80.575 through 28B.80.585.

(1) "Board" means the higher education coordinating board.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes

"24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Timber impact area" means a county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average. [1991 c 315 § 18.]

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.80.575 Program for dislocated forest products workers—Duties.** The board shall administer a program designed to provide upper division higher education opportunities to dislocated forest products workers, their spouses, and others in timber impact areas. In administering the program, the board shall have the following powers and duties:

(1) Distribute funding for institutions of higher education to service placebound students in the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average;

(2) Appoint an advisory committee to assist the board in program design and future project selection;

(3) Monitor the program and report on student progress and outcome; and

(4) Report to the legislature by December 1, 1993, on the status of the program. [1991 c 315 § 19.]

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.80.580 Program for dislocated forest products workers—Placebound students—Tuition and fee waiver.** (1) The board shall contract with institutions of higher education to provide upper division classes to serve additional placebound students in the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber

and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average; and which are not served by an existing state-funded upper division degree program. The number of full-time equivalent students served in this manner shall be determined by the applicable omnibus appropriations act. The board may direct that all the full-time equivalent enrollments be served in one of the eligible timber impact areas if it should determine that this would be the most viable manner of establishing the program and using available resources. The institutions shall utilize telecommunication technology, if available, to carry out the purposes of this section. The institutions providing the service shall waive the tuition, service, and activities fees for dislocated forest products workers or their unemployed spouses enrolled as one of the full-time equivalent students allocated to the college under this section.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) For any eligible participant, tuition shall be waived for a maximum of four semesters or six quarters within a two-year time period and the participant must be enrolled for a minimum of ten credits per semester or quarter. [1991 c 315 § 20.]

**Intent**—1991 c 315: See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date**—1991 c 315: See RCW 50.70.900 through 50.70.902.

**28B.80.585 Program for dislocated forest products workers—Priority.** Dislocated forest products workers and their spouses shall receive priority for attendance in upper division courses allocated under RCW 28B.80.580. Remaining allocations may be distributed to others in the timber impact area. [1991 c 315 § 21.]

**Intent**—1991 c 315: See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date**—1991 c 315: See RCW 50.70.900 through 50.70.902.

**28B.80.600 Video telecommunications programming.** The higher education coordinating board shall provide state-wide coordination of video telecommunications programming for the public four-year higher education institutions. [1990 c 208 § 9.]

## Chapter 28B.101

### EDUCATIONAL OPPORTUNITY GRANT PROGRAM—PLACEBOUND STUDENTS

#### Sections

- 28B.101.005 Finding—Intent.
- 28B.101.010 Program created.
- 28B.101.020 Definition—Eligibility.
- 28B.101.030 Administration of program—Payments to participants.
- 28B.101.040 Use of grants.

**28B.101.005 Finding—Intent.** The legislature finds that many individuals in the state of Washington have attended college and received an associate of arts degree, or its equivalent, but are placebound.

The legislature intends to establish an educational opportunity grant program for placebound students who have completed an associate of arts degree, or its equivalent, in an effort to increase their participation in and completion of upper-division programs. [1990 c 288 § 2.]

**28B.101.010 Program created.** The educational opportunity grant program is hereby created as a demonstration project to serve placebound financially needy students by assisting them to obtain a baccalaureate degree at public and private institutions of higher education which have the capacity to accommodate such students within existing educational programs and facilities. [1990 c 288 § 3.]

**28B.101.020 Definition—Eligibility.** (1) For the purposes of this chapter, "placebound" means unable to relocate to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors.

(2) To be eligible for an educational opportunity grant, applicants must be placebound residents of the state of Washington who are needy students as defined in RCW 28B.10.802(3) and who have completed the associate of arts degree or its equivalent. A placebound resident is one who may be influenced by the receipt of an enhanced student financial aid award to attend an institution that has existing unused capacity rather than attend a branch campus established pursuant to chapter 28B.45 RCW. An eligible placebound applicant is further defined as a person whose residence is located in an area served by a branch campus who, because of family or employment commitments, health concerns, monetary need, or other similar factors, would be unable to complete an upper-division course of study but for receipt of an educational opportunity grant. [1990 c 288 § 4.]

**28B.101.030 Administration of program—Payments to participants.** The higher education coordinating board shall develop and administer the educational opportunity grant program. The board shall adopt necessary rules and guidelines and develop criteria and procedures to select eligible participants in the program. Payment shall be made directly to the eligible participant periodically upon verification of enrollment and satisfactory progress towards degree completion. [1990 c 288 § 5.]

**28B.101.040 Use of grants.** Grants may be used by eligible participants to attend any public or private college or university in the state of Washington that has an existing unused capacity. Grants shall not be used to attend any branch campus or educational program established under chapter 28B.45 RCW. The participant shall

not be eligible for a grant if it will be used for any programs that include religious worship, exercise, or instruction or to pursue a degree in theology. Each participating student may receive up to two thousand five hundred dollars per academic year, not to exceed the student's demonstrated financial need for the course of study. [1990 c 288 § 6.]

### Chapter 28B.102

#### FUTURE TEACHERS CONDITIONAL SCHOLARSHIP PROGRAM

##### Sections

28B.102.060 Repayment obligation.

**28B.102.060 Repayment obligation.** (1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for ten years in the public schools of the state of Washington, under rules adopted by the board.

(2) The terms of the repayment, including deferral of the interest, shall be consistent with the terms of the federal guaranteed loan program.

(3) The period for repayment shall be ten years, with payments accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in a public school until the entire repayment obligation is satisfied or the borrower ceases to teach at a public school in this state. Should the participant cease to teach at a public school in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall

maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017. [1991 c 164 § 6; 1987 c 437 § 6.]

### Chapter 28B.104

#### NURSES CONDITIONAL SCHOLARSHIP PROGRAM

##### Sections

28B.104.010 Repealed.  
28B.104.020 Repealed.  
28B.104.030 Repealed.  
28B.104.040 Repealed.  
28B.104.050 Repealed.  
28B.104.060 Repayment obligation.  
28B.104.070 Repealed.  
28B.104.900 Repealed.

**28B.104.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.060 Repayment obligation.**

**Reviser's note:** RCW 28B.104.060 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**28B.104.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28B.104.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 28B.107

#### PACIFIC RIM LANGUAGE SCHOLARSHIP PROGRAM

##### Sections

28B.107.005 Findings.

- 28B.107.010 Definitions.  
 28B.107.020 Program created—Duties of the higher education coordinating board.  
 28B.107.030 Selection of scholarship recipients.  
 28B.107.040 Scholarships—Conditions—Sources of funds.  
 28B.107.050 Report—Recommendations.  
 28B.107.900 Expiration date—1990 c 243.

**28B.107.005 Findings.** The legislature finds that it is important to the economic future of Washington state to promote international awareness and understanding. The legislature intends to complement the provisions of chapter 28A.630 RCW by encouraging high school students to study Pacific Rim languages, promote teacher exchanges with Pacific Rim nations, and allow nonimmigrant aliens to serve as exchange teachers for more than one year. [1990 c 243 § 1.]

**28B.107.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Washington state Pacific Rim language scholarship" means a scholarship awarded, for a period not to exceed one year, to a student proficient in speaking one of the following languages: Spanish, Russian, Chinese, and Japanese.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Student" means a high school senior who is a proficient speaker of a Pacific Rim language, and who intends to enroll in an institution of higher education within one year of high school graduation. [1990 c 243 § 2.]

**28B.107.020 Program created—Duties of the higher education coordinating board.** The Washington state Pacific Rim language scholarship program is created. The program shall be administered by the higher education coordinating board. In administering the program, the board shall have the following powers and duties:

(1) Select students to receive the scholarships with the assistance of a screening committee composed of leaders in government, business, and education;

(2) Adopt necessary rules and guidelines;

(3) Publicize the program; and

(4) Solicit and accept grants and donations from public and private sources for the program. [1990 c 243 § 3.]

**28B.107.030 Selection of scholarship recipients.** The board shall select up to four students yearly from each congressional district to receive a Washington state Pacific Rim scholarship from funds appropriated for this purpose. Of the four students selected, one student shall be a proficient speaker of Spanish, one of Russian, one of Japanese, and one of Chinese. Using measures as objective as possible, the board shall select students who

have shown the most improvement in their ability to speak the language during their high school careers. [1990 c 243 § 4.]

**28B.107.040 Scholarships—Conditions—Sources of funds.** Scholarships shall not exceed one thousand dollars per student. The scholarship shall not be disbursed to the student until the student is enrolled at an institution of higher education. The board may also use private donations or any other funds given to the board for this program to make additional scholarship awards. [1990 c 243 § 5.]

**28B.107.050 Report—Recommendations.** By October 30, 1995, the board shall report on the program to the governor and the house of representatives and senate committees on higher education. The report shall include a recommendation on whether to expand the number of languages included, and whether to expand the program to students in each legislative district. [1990 c 243 § 6.]

**28B.107.900 Expiration date—1990 c 243.** This chapter shall expire June 30, 1996, and no scholarships shall be granted after June 30, 1996. [1990 c 243 § 8.]

## Chapter 28B.108

### AMERICAN INDIAN ENDOWED SCHOLARSHIP PROGRAM

#### Sections

- 28B.108.005 Findings.  
 28B.108.010 Definitions.  
 28B.108.020 Program created—Duties of the higher education coordinating board—Screening committee.  
 28B.108.030 Advisory committee.  
 28B.108.040 Award of scholarships—Amount—Duration.  
 28B.108.050 Scholarship trust fund established.  
 28B.108.060 Scholarship endowment fund established.  
 28B.108.070 State matching funds.

**28B.108.005 Findings.** The legislature recognizes the benefit to our state and nation of providing equal educational opportunities for all races and nationalities. The legislature finds that American Indian students are underrepresented in Washington's colleges and universities. The legislature also finds that past discriminatory practices have resulted in this underrepresentation. Creating an endowed scholarship program to help American Indian students obtain a higher education will help to rectify past discrimination by providing a means and an incentive for American Indian students to pursue a higher education. The state will benefit from contributions made by American Indians who participate in a program of higher education. [1990 c 287 § 1.]

**28B.108.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington

which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" or "student" means an American Indian who is a financially needy student, as defined in RCW 28B.10.802, who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other American Indians. [1991 c 228 § 10; 1990 c 287 § 2.]

**28B.108.020 Program created—Duties of the higher education coordinating board—Screening committee.** The American Indian endowed scholarship program is created. The program shall be administered by the higher education coordinating board. In administering the program, the board's powers and duties shall include but not be limited to:

(1) Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education;

(2) Adopting necessary rules and guidelines;

(3) Publicizing the program;

(4) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060;

(5) Requesting and accepting from the state treasurer moneys earned from the trust fund and the endowment fund created in RCW 28B.108.050 and 28B.108.060;

(6) Soliciting and accepting grants and donations from public and private sources for the program; and

(7) Naming scholarships in honor of those American Indians from Washington who have acted as role models. [1990 c 287 § 3.]

**28B.108.030 Advisory committee.** The higher education coordinating board shall establish an advisory committee to assist in program design and to develop criteria for the screening and selection of scholarship recipients. The committee shall be composed of representatives of the same groups as the screening committee described in RCW 28B.108.020. The criteria shall assess the student's social and cultural ties to an American Indian community within the state. The criteria shall include a priority for upper-division or graduate students. The criteria may include a priority for students who are majoring in program areas in which expertise is needed by the state's American Indians. [1991 c 228 § 11; 1990 c 287 § 4.]

**28B.108.040 Award of scholarships—Amount—Duration.** The board may award scholarships to eligible students from moneys earned from the endowment fund created in RCW 28B.108.060, or from funds appropriated to the board for this purpose, or from any private

donations, or from any other funds given to the board for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the board shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the board. [1990 c 287 § 5.]

**28B.108.050 Scholarship trust fund established.** The American Indian endowed scholarship trust fund is established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the higher education coordinating board, and when conditions set forth in RCW 28B.108.070 are met, the treasurer shall deposit state matching moneys in the trust fund into the American Indian endowment fund. No appropriation is required for expenditures from the trust fund. [1991 1st sp.s. c 13 § 107; 1990 c 287 § 6.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**28B.108.060 Scholarship endowment fund established.** The American Indian scholarship endowment fund is established. The endowment fund shall be administered by the state treasurer. Moneys received from the higher education coordinating board, private donations, state matching moneys, and funds received from any other source may be deposited into the endowment fund. At the request of the higher education coordinating board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund.

The principal of the endowment fund shall not be invaded. The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040. [1991 1st sp.s. c 13 § 110; 1990 c 287 § 7.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**28B.108.070 State matching funds.** The higher education coordinating board may request that the treasurer deposit fifty thousand dollars of state matching funds into the American Indian scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations. Private cash donations means moneys from nonstate sources that include, but are not limited to, federal moneys, tribal moneys, and assessments by commodity commissions authorized to conduct research activities, including but not limited to

research studies authorized under RCW 15.66.030 and 15.65.040. [1991 c 228 § 12; 1990 c 287 § 8.]

### Chapter 28B.115

## HEALTH PROFESSIONAL CONDITIONAL SCHOLARSHIP PROGRAM

#### Sections

28B.115.010	Legislative findings.
28B.115.020	Definitions.
28B.115.030	Program established—Duties of board.
28B.115.040	Technical assistance for rural communities.
28B.115.050	Planning committee—Criteria for selecting participants.
28B.115.060	Eligible credentialed health care professions—Required service obligations.
28B.115.070	Eligible credentialed health care professions—Health professional shortage areas.
28B.115.080	Annual award amount—Scholarship preferences—Required service obligations.
28B.115.090	Loan repayment and scholarship awards.
28B.115.100	Discrimination by participants prohibited—Violation.
28B.115.110	Participant obligation—Repayment obligation.
28B.115.120	Participant obligation—Scholarships.
28B.115.130	Health professional loan repayment and scholarship program fund.
28B.115.140	Transfer of program administration.
28B.115.900	Effective date—1989 1st ex.s. c 9.
28B.115.901	Severability—1989 1st ex.s. c 9.
28B.115.902	Application to scope of chapter—Captions not law—1991 c 332.

**28B.115.010 Legislative findings.** The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state such as in the more rural areas. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state. [1989 1st ex.s. c 9 § 716. Formerly RCW 18.150.010.]

**28B.115.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the higher education coordinating board.

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the board.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070, or until June 1, 1992, as provided for in RCW 28B.115.060. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW and designated by the department in RCW 28B.115.070, or until June 1, 1992, as established in RCW 28B.115.060 as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments. [1991 c 332 § 15; 1989 1st ex.s. c 9 § 717. Formerly RCW 18.150.020.]

**28B.115.030 Program established—Duties of board.** The health professional loan repayment and scholarship program is established for credentialed health professionals serving in health professional shortage areas. The program shall be administered by the higher education coordinating board. In administering this program, the board shall:

(1) Select credentialed health care professionals to participate in the loan repayment portion of the loan repayment and scholarship program and select eligible students to participate in the scholarship portion of the loan repayment and scholarship program;

(2) Adopt rules and develop guidelines to administer the program;

(3) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

(4) Publicize the program, particularly to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the work force;

(5) Solicit and accept grants and donations from public and private sources for the program; and

(6) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment. [1991 c 332 § 16; 1989 1st ex.s. c 9 § 718. Formerly RCW 18.150.030.]

**28B.115.040 Technical assistance for rural communities.** The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health

care professionals, and fulfilling any matching requirements. [1991 c 332 § 17.]

**28B.115.050 Planning committee—Criteria for selecting participants.** The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the \*state board of community college education, the superintendent of public instruction, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.10.802. [1991 c 332 § 18; 1989 1st ex.s. c 9 § 719. Formerly RCW 18.150.040.]

\*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**28B.115.060 Eligible credentialed health care professions—Required service obligations.** Until June 1, 1992, the board, in consultation with the department, shall:

(1) Establish loan repayments for persons authorized to practice one of the following credentialed health care professions: Medicine pursuant to chapter 18.57, 18.57A, 18.71 or 18.71A RCW, nursing pursuant to chapter 18.78 or 18.88 RCW, or dentistry pursuant to chapter 18.32 RCW. The amount of the loan repayment shall not exceed fifteen thousand dollars per year for a maximum of five years per individual. The required service obligation in a health professional shortage area for loan repayment shall be three years;

(2) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Nursing pursuant to chapter 18.78 or 18.88 RCW who declare the intent to serve in a nurse shortage area as defined by the department upon completion of an education or training program and agree to a five-year service obligation. The amount of the scholarship shall not exceed three thousand dollars per year for a maximum of five years;

(3) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Medicine pursuant to chapter 18.57 or 18.71 RCW who declare an intent to serve as a primary care physician in a rural area in the state of Washington upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than fifteen thousand dollars per year for five years.

In determining scholarship awards for prospective physicians, the selection criteria shall include requirements that recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a

rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(4) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Midwifery pursuant to chapter 18.50 RCW or advanced registered nurse practitioner certified nurse midwifery under chapter 18.88 RCW who declare an intent to serve as a midwife in a midwifery shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(5) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in the following credentialed health care profession: Pharmacy pursuant to chapter 18.64 RCW who declare an intent to serve as a pharmacist in a pharmacy shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(6) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter \*18.150, 28B.104, or 70.180 RCW. [1991 c 332 § 19.]

\*Reviser's note: Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

**28B.115.070 Eligible credentialed health care professions—Health professional shortage areas.** After June 1, 1992, the department, in consultation with the board and the department of social and health services, shall:

(1) Determine eligible credentialed health care professions for the purposes of the loan repayment and scholarship program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. This determination shall be based upon health professional shortage needs identified in the health personnel resource plan authorized by RCW 28B.125.010. The department may add or remove professions from eligibility based upon the determination that a profession is

no longer in shortage as determined by the health personnel resource plan. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

(2) Determine health professional shortage areas for each of the eligible credentialed health care professions. [1991 c 332 § 20.]

**28B.115.080 Annual award amount—Scholarship preferences—Required service obligations.** After June 1, 1992, the board, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall not be more than fifteen thousand dollars per year. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the program;

(5) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter \*18.150, 28B.104, or 70.180 RCW. [1991 c 332 § 21.]

\*Reviser's note: Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

**28B.115.090 Loan repayment and scholarship awards.** (1) The board may grant loan repayment and

scholarship awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the board for this purpose. Participants are ineligible to receive loan repayment if they have received a scholarship from programs authorized under this chapter or chapter \*28B.104 or 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or \*\*chapter 18.150 RCW.

(2) Funds appropriated for the program, including reasonable administrative costs, may be used by the board for the purposes of loan repayments or scholarships. The board shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year and based upon the health personnel resource plan authorized in RCW 28B.125.010.

(3) One portion of the funding appropriated for the program shall be used by the board as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter 70.185 RCW; one portion of the funding shall be used by the board as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the board for all other awards. The board shall determine the amount of total funding to be distributed between the three portions. [1991 c 332 § 22; 1989 1st ex.s. c 9 § 720. Formerly RCW 18.150.050.]

Reviser's note: \*(1) Chapter 28B.104 RCW was repealed by 1991 1st sp.s. c 27 § 2.

\*\*\*(2) Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

**28B.115.100 Discrimination by participants prohibited—Violation.** In providing health care services the participant shall not discriminate against a person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance including Title XIX of the federal social security act or under the state medical assistance program authorized by chapter 74.09 RCW and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of the federal social security act for all services for which payment may be made under part B of Title XVIII of the federal social security act and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX of the federal social security act to provide services to individuals entitled to medical assistance under the plan and enters into appropriate agreements with the department of social

and health services for medical care services under chapter 74.09 RCW. Participants found by the board or the department in violation of this section shall be declared ineligible for receiving assistance under the program authorized by this chapter. [1991 c 332 § 23.]

**28B.115.110 Participant obligation—Repayment obligation.** Participants in the health professional loan repayment and scholarship program who are awarded loan repayments shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation in a designated health professional shortage area.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the board and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the board, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. The board shall determine the applicability of this subsection.

(7) The board is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017. [1991 c 332 § 24; 1991 c 164 § 8; 1989 1st ex.s. c 9 § 721. Formerly RCW 18.150.060.]

**Reviser's note:** This section was amended by 1991 c 164 § 8 and by 1991 c 332 § 24, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**28B.115.120 Participant obligation—Scholarships.**

(1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an obligation to repay the scholarship, with interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The terms of the repayment, including deferral and rate of interest, shall be consistent with the terms of the federal guaranteed student loan program.

(3) The period for repayment shall coincide with the required service obligation, with payments accruing quarterly commencing no later than nine months from the date the participant completes or discontinues the course of study or completes or discontinues the required residency.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied. Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to repay to the program an amount equal to twice the total amount paid by the program on their behalf.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the board and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and

making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(7) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The board may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(8) The board may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. [1991 c 332 § 25.]

**28B.115.130 Health professional loan repayment and scholarship program fund.** (1) Any funds appropriated by the legislature for the health professional loan repayment and scholarship program or any other public or private funds intended for loan repayments or scholarships under this program shall be placed in the account created by this section.

(2) The health professional loan repayment and scholarship program fund is created in custody of the state treasurer. All receipts from the program shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1991 c 332 § 28.]

**28B.115.140 Transfer of program administration.** After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate mission. [1989 1st ex.s. c 9 § 722. Formerly RCW 18.150.070.]

**28B.115.900 Effective date—1989 1st ex.s. c 9.** See RCW 43.70.910.

**28B.115.901 Severability—1989 1st ex.s. c 9.** See RCW 43.70.920.

**28B.115.902 Application to scope of chapter—Captions not law—1991 c 332.** See notes following RCW 18.130.010.

**Chapter 28B.120**

**WASHINGTON FUND FOR EXCELLENCE IN HIGHER EDUCATION PROGRAM**

Sections

- 28B.120.005 Findings.
- 28B.120.010 Washington fund for excellence in higher education program—Incentive grants.
- 28B.120.020 Program administration.
- 28B.120.030 Receipt of gifts, grants, and endowments.
- 28B.120.040 Fund for excellence.

**28B.120.005 Findings.** The legislature finds that encouraging collaboration among the various educational sectors to meet state-wide needs will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative solutions to issues of critical state-wide need, including:

- (1) Improving rates of participation and completion at each educational level;
- (2) Recognizing needs of special populations of students;
- (3) Improving the effectiveness of education by better coordinating communication and understanding between sectors. [1991 c 98 § 1.]

**28B.120.010 Washington fund for excellence in higher education program—Incentive grants.** The Washington fund for excellence in higher education program is established. The higher education coordinating board shall administer the program. Through this program the board may award on a competitive basis incentive grants to state public institutions of higher education or consortia of institutions to encourage cooperative programs designed to address specific system problems. Grants shall not exceed a two-year period. Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education, and to proposals that show substantive institutional commitment. Institutions are encouraged to solicit non-state funds to support these cooperative programs. [1991 c 98 § 2.]

**28B.120.020 Program administration.** The higher education coordinating board shall have the following powers and duties in administering the program:

- (1) To adopt rules necessary to carry out the program;
- (2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities;
- (3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1991–93 biennium the guidelines shall be consistent with the following priorities: (a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities, at a rate consistent with their proportion of the population; (b) K–12 teacher preparation models that encourage collaboration between higher education and K–12 to improve the preparedness of teachers, including provisions for higher

education faculty involved with teacher preparation to spend time teaching in K–12 schools; and (c) articulation and transfer activities to smooth the transfer of students from K–12 to higher education, or from the community colleges to four-year institutions. After June 30, 1993, and each biennium thereafter, the board shall determine funding priorities for collaborative proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the \*state board for community college education, the \*\*state board for vocational education, higher education institutions, educational associations, and business and community groups consistent with state-wide needs;

(4) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(5) To establish reporting, monitoring, and dissemination requirements for the recipients of the grants. [1991 c 98 § 3.]

**Reviser's note:** \*(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

\*\* (2) Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 8.

**28B.120.030 Receipt of gifts, grants, and endowments.** The higher education coordinating board may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1991 c 98 § 4.]

**28B.120.040 Fund for excellence.** The fund for excellence is hereby established in the custody of the state treasurer. The higher education coordinating board shall deposit in the fund all moneys received under RCW 28B.120.030. Moneys in the fund may be spent only for the purposes of RCW 28B.120.010 and 28B.120.020. Disbursements from the fund shall be on the authorization of the higher education coordinating board. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1991 c 98 § 5.]

## Chapter 28B.125

### HEALTH PERSONNEL RESOURCES

#### Sections

- 28B.125.005 Intent.  
 28B.125.010 State-wide health personnel resource plan—Committee.  
 28B.125.020 Institutional plans—Implementation.  
 28B.125.900 Application to scope of practice—Captions not law—1991 c 332.

**28B.125.005 Intent.** The legislature finds that certain health care professional shortages exist and result in

entire communities or specific populations within communities not having access to basic health care services.

The legislature further finds that the state currently does not have a state-wide comprehensive and systematic policy for the purpose of identifying shortages and designing and implementing activities to address shortages.

The legislature declares that the establishment of higher educational programming and other activities necessary to address health professional shortages should be a state policy concern and that a means to accomplish this should be established.

The legislature further declares that the development of state policy on professional shortages should involve close coordination and consultation between state government, institutions of higher education that conduct health care research and train health care professionals, health care service providers, consumers, and others.

The legislature further declares that the health care needs of the people of this state should be the primary factor determining state policymaking designed to address health professional shortages. [1991 c 332 § 4.]

**28B.125.010 State-wide health personnel resource plan—Committee.** (1) The higher education coordinating board, the \*state board for community college education, the superintendent of public instruction, the state department of health, and the state department of social and health services, to be known for the purposes of this section as the committee, shall establish a state-wide health personnel resource plan. The governor shall appoint a lead agency from one of the agencies on the committee.

In preparing the state-wide plan the committee shall consult with the training and education institutions affected by this chapter, health care providers, employers of health care providers, insurers, consumers of health care, and other appropriate entities.

Should a successor agency or agencies be authorized or created by the legislature with planning, coordination, or administrative authority over vocational-technical schools, community colleges, or four-year higher education institutions, the governor shall grant membership on the committee to such agency or agencies and remove the member or members it replaces.

The committee shall appoint subcommittees for the purpose of assisting in the development of the institutional plans required under this chapter. Such subcommittees shall at least include those committee members that have statutory responsibility for planning, coordination, or administration of the training and education institutions for which the institutional plans are being developed. In preparing the institutional plans for four-year institutes of higher education, the subcommittee shall be composed of at least the higher education coordinating board and the state's four-year higher education institutions. The appointment of subcommittees to develop portions of the state-wide plan shall not relinquish the committee's responsibility for assuring overall coordination, integration, and consistency of the state-wide plan.

In establishing and implementing the state-wide health personnel resource plan the committee shall, to the extent possible, utilize existing data and information, personnel, equipment, and facilities and shall minimize travel and take such other steps necessary to reduce the administrative costs associated with the preparation and implementation of the plan.

(2) The state-wide health resource plan shall include at least the following:

(a)(i) Identification of the type, number, and location of the health care professional work force necessary to meet health care needs of the state.

(ii) A description and analysis of the composition and numbers of the potential work force available for meeting health care service needs of the population to be used for recruitment purposes. This should include a description of the data, methodology, and process used to make such determinations.

(b) A centralized inventory of the numbers of student applications to higher education and vocational-technical training and education programs, yearly enrollments, yearly degrees awarded, and numbers on waiting lists for all the state's publicly funded health care training and education programs. The committee shall request similar information for incorporation into the inventory from private higher education and vocational-technical training and education programs.

(c) A description of state-wide and local specialized provider training needs to meet the health care needs of target populations and a plan to meet such needs in a cost-effective and accessible manner.

(d) A description of how innovative, cost-effective technologies such as telecommunications can and will be used to provide higher education, vocational-technical, continued competency, and skill maintenance and enhancement education and training to placebound students who need flexible programs and who are unable to attend institutions for training.

(e) A strategy for assuring higher education and vocational-technical educational and training programming is sensitive to the changing work force such as reentry workers, women, minorities, and the disabled.

(f) A strategy and coordinated state-wide policy developed by the subcommittees authorized in subsection (1) of this section for increasing the number of graduates intending to serve in shortage areas after graduation, including such strategies as the establishment of preferential admissions and designated enrollment slots.

(g) Guidelines and policies developed by the subcommittees authorized in subsection (1) of this section for allowing academic credit for on-the-job experience such as internships, volunteer experience, apprenticeships, and community service programs.

(h) A strategy developed by the subcommittees authorized in subsection (1) of this section for making required internships and residency programs available that are geographically accessible and sufficiently diverse to meet both general and specialized training needs as identified in the plan when such programs are required.

(i) A description of the need for multiskilled health care professionals and an implementation plan to restructure educational and training programming to meet these needs.

(j) An analysis of the types and estimated numbers of health care personnel that will need to be recruited from out-of-state to meet the health professional needs not met by in-state trained personnel.

(k) An analysis of the need for educational articulation within the various health care disciplines and a plan for addressing the need.

(l) An analysis of the training needs of those members of the long-term care profession that are not regulated and that have no formal training requirements. Programs to meet these needs should be developed in a cost-effective and a state-wide accessible manner that provide for the basic training needs of these individuals.

(m) A designation of the professions and geographic locations in which loan repayment and scholarships should be available based upon objective data-based forecasts of health professional shortages. A description of the criteria used to select professions and geographic locations shall be included. Designations of professions and geographic locations may be amended by the department of health when circumstances warrant as provided for in RCW 28B.115.070.

(n) A description of needed changes in regulatory laws governing the credentialing of health professionals.

(o) A description of linguistic and cultural training needs of foreign-trained health care professionals to assure safe and effective practice of their health care profession.

(p) A plan to implement the recommendations of the state-wide nursing plan authorized by RCW 74.39.040.

(q) A description of criteria and standards that institutional plans provided for in this section must address in order to meet the requirements of the state-wide health personnel resource plan, including funding requirements to implement the plans. The committee shall also when practical identify specific outcome measures to measure progress in meeting the requirements of this plan. The criteria and standards shall be established in a manner as to provide flexibility to the institutions in meeting state-wide plan requirements. The committee shall establish required submission dates for the institutional plans that permit inclusion of funding requests to the institutions budget requests to the state.

(r) A description of how the higher education coordinating board, \*state board for community college education, superintendent of public instruction, department of health, and department of social and health services coordinated in the creation and implementation of the state plan including the areas of responsibility each agency shall assume. The plan should also include a description of the steps taken to assure participation by the groups that are to be consulted with.

(s) A description of the estimated fiscal requirements for implementation of the state-wide health resource plan that include a description of cost saving activities that reduce potential costs by avoiding administrative

duplication, coordinating programming activities, and other such actions to control costs.

(3) The committee may call upon other agencies of the state to provide available information to assist the committee in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(4) State agencies involved in the development and implementation of the plan shall to the extent possible utilize existing personnel and financial resources in the development and implementation of the state-wide health personnel resource plan.

(5) The state-wide health personnel resource plan shall be submitted to the governor by July 1, 1992, and updated by July 1 of each even-numbered year. The governor, no later than December 1 of that year, shall approve, approve with modifications, or disapprove the state-wide health resource plan.

(6) The approved state-wide health resource plan shall be submitted to the senate and house of representatives committees on health care, higher education, and ways and means or appropriations by December 1 of each even-numbered year.

(7) Implementation of the state-wide plan shall begin by July 1, 1993.

(8) Notwithstanding subsections (5) and (7) of this section, the committee shall prepare and submit to the higher education coordinating board by June 1, 1992, the analysis necessary for the initial implementation of the health professional loan repayment and scholarship program created in chapter 28B.115 RCW.

(9) Each publicly funded two-year and four-year institute of higher education authorized under Title 28B RCW and vocational-technical institution authorized under Title 28A RCW that offers health training and education programs shall biennially prepare and submit an institutional plan to the committee. The institutional plan shall identify specific programming and activities of the institution that meet the requirements of the state-wide health professional resource plan.

The committee shall review and assess whether the institutional plans meet the requirements of the state-wide health personnel resource plan and shall prepare a report with its determination. The report shall become part of the institutional plan and shall be submitted to the governor and the legislature.

The institutional plan shall be included with the institution's biennial budget submission. The institution's budget shall identify proposed spending to meet the requirements of the institutional plan. Each vocational-technical institution, college, or university shall be responsible for implementing its institutional plan. [1991 c 332 § 5.]

\*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**28B.125.020 Institutional plans—Implementation.**  
The institutional plans provided for in this chapter are to be implemented by each institution consistent with the

biennial appropriation of the legislature. Whenever feasible, each institution shall make a good faith effort to implement the plan utilizing existing financial resources.

If there is a conflict between portions of the institutional plans proposing changes in curriculum and the accreditation standards of health training and education programs, the institution may deviate from the plan. However, the institution shall provide to the committee established in this chapter confirmation from the accrediting body indicating that the proposed changes will jeopardize accreditation and that the institution has made a good faith effort to obtain approval for such changes. If the institution is unable to obtain approval from the accrediting agency, it shall present to the committee an alternative proposal with changes that meet the objectives of the state-wide and institutional plans and has the approval of the accrediting agency.

Implementation of the institutional plans with respect to changes in admission requirements or curriculum are subject to the approval of the board of regents or the board of trustees as specified in Title 28B RCW. If the board believes that implementation of portions of the institutional plan may not be consistent with standards and practices of the institution, the board shall conduct a public hearing in accordance with chapter 34.05 RCW. At such time, the committee shall present an explanation of the need for such changes. In addition, the institution shall present alternative recommended changes to the institutional plan that meet the requirements of this chapter for the state-wide and institutional plans. After deliberation the board shall prepare a summary of the proceedings together with recommendations for modifications of the institutional plan. [1991 1st sp.s. c 27 § 1.]

**28B.125.900 Application to scope of practice—Captions not law—1991 c 332.** See notes following RCW 18.130.010.

## Title 28C VOCATIONAL EDUCATION

### Chapters

- 28C.04 Vocational education.**
- 28C.10 Private vocational schools.**
- 28C.15 Vocational technology center.**
- 28C.18 Work force training and education.**
- 28C.20 Washington state council on vocational education.**

### Chapter 28C.04 VOCATIONAL EDUCATION

#### Sections

- 28C.04.015 Repealed.
- 28C.04.024 Repealed.
- 28C.04.035 Repealed.
- 28C.04.045 Repealed.

**28C.04.015 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28C.04.024 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28C.04.035 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**28C.04.045 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

### Chapter 28C.10

### PRIVATE VOCATIONAL SCHOOLS

#### Sections

- 28C.10.020 Definitions.
- 28C.10.030 Application of chapter.
- 28C.10.050 Minimum standards—Denial, revocation, or suspension of licenses.
- 28C.10.082 Tuition recovery fund—Created—State treasurer custodian.
- 28C.10.084 Tuition recovery fund—Deposits required—Use—Claims—Notice—Disbursements.
- 28C.10.110 Unfair business practices.
- 28C.10.120 Complaints—Investigations—Hearings—Remedies.

**28C.10.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the work force training and education coordinating board or its successor.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any location where [there is] an entity offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "To grant" includes to award, issue, sell, confer, bestow, or give.

(9) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(10) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act. [1991 c 238 § 81; 1990 c 188 § 5; 1986 c 299 § 2.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1990 c 188:** See note following RCW 28C.04.015.

**28C.10.030 Application of chapter.** This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the higher-education coordinating board;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under RCW 28C.10.100;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities offering only courses certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

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

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days. [1990 c 188 § 6; 1986 c 299 § 3.]

**Severability—1990 c 188:** See note following RCW 28C.04.015.

**28C.10.050 Minimum standards—Denial, revocation, or suspension of licenses.** (1) The agency shall adopt by rule minimum standards for private vocational schools. The minimum standards shall include, but not be limited to, requirements for each school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.17 RCW;

(b) Follow a uniform state-wide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required;

(d) Use an enrollment contract or agreement that includes: (i) The cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll. Guidelines for such assessments shall be developed by the agency, in consultation with the schools. The method of assessment shall be reported to the agency. Assessment records shall be maintained in the student's file;

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation.

(2) Any enrollment contract shall have an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The attachment shall stipulate that the school has complied with subsection (1)(h) of this section and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties.

(3) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards. [1990 c 188 § 7; 1987 c 459 § 3; 1986 c 299 § 5.]

**Severability**—1990 c 188: See note following RCW 28C.04.015.

**28C.10.082 Tuition recovery fund—Created—State treasurer custodian.** The tuition recovery fund is hereby established in the custody of the state treasurer. The agency shall deposit in the fund all moneys received under RCW 28C.10.084. Moneys in the fund may be spent only for the purposes under RCW 28C.10.084. Disbursements from the fund shall be on authorization of the agency. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1991 1st sp.s. c 13 § 85; 1987 c 459 § 2.]

**Effective dates**—**Severability**—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**28C.10.084 Tuition recovery fund—Deposits required—Use—Claims—Notice—Disbursements.** (1) The agency shall establish, maintain, and administer a tuition recovery fund. All funds collected for the tuition recovery fund are payable to the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, or, in the case of a minor, his or her parents or guardian, for purposes including but not limited to the settlement of claims procedures under subsection (9) of this section and RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund.

(2) To be and remain licensed under this chapter each entity shall, in addition to other requirements under this chapter, make cash deposits into a tuition recovery fund as a means to assure payment of claims brought under this chapter. The fund shall be initially capitalized at two hundred thousand dollars and shall achieve an operating balance of at least one million dollars within five years after May 18, 1987, as required under subsection (5) of this section.

(3) The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be established by the agency, based on an incremental scale that recognizes the average amount of unearned prepaid tuition in possession of the entity. However, the minimum amount of liability for any entity shall not be less than five thousand dollars and the maximum amount shall not exceed two hundred thousand dollars. Such limitation on each entity's liability remains unchanged by single or cumulative disbursements made on behalf of the entity. The upper limit of liability is reestablished following the settlement of any claim.

(4) Within sixty days after any entity deposits its initial contribution into the fund, the agency shall release

whatever surety such entity had previously filed. Thereupon, the tuition recovery fund shall be liable for a period of one year following the date such surety is released with respect to prior claims against the surety. However, the liability of the fund is limited to the amount of and subject to the defenses of that released surety as though it had remained on file with the agency. The fund's liability with respect to each entity that makes an initial deposit into the fund commences on that date and ceases one year from the date it is no longer licensed under this chapter.

(5) The agency shall adopt by rule a matrix for calculating the deposits into the fund required of each entity. Proration shall be determined by factoring the entity's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created in subsection (3) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in ten equal increments over a five-year period, commencing with the sixth month after May 18, 1987. Additionally, the agency shall require deposits for initial capitalization, under which the amount each entity deposits is proportionate to its share of two hundred thousand dollars, employing the matrix developed under this subsection. The amount thus established shall be deposited by each licensee of record, within thirty days after May 18, 1987, and a like amount shall be deposited by each subsequent applicant for licensing before the issuance of such license.

(6) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, collect deposits when due by serving appropriate notices to affected entities, and make disbursements to settle claims. When the deposits total five million dollars and the history of disbursements so warrants, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both. When such level is achieved, the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(7) The agency shall make determinations based on annual financial data supplied by the entity whether the increment assigned to that entity on the incremental scale established under subsection (5) of this section has changed. If an increase or decrease has occurred, a corresponding change in its incremental position and contribution schedule shall be made before the date of its next scheduled deposit into the fund.

(8) If fifty-one percent or more of the ownership interest in an entity is conveyed through sale or other means into different ownership, the contribution schedule of the prior owner is canceled. All contributions made to the date of transfer accrue to the fund. The new

owner commences contributions under provisions applying to a new applicant.

(9) To settle complaints adjudicated under RCW 28C.10.120 and claims resulting when a private vocational school ceases to provide educational services, the agency may make disbursements from the fund. In addition to the processes described under RCW 28C.10.120 for handling complaints, the following additional procedures are established to deal with school closures:

(a) The agency shall attempt to notify all potential claimants. The absence of records and other circumstances may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the agency may disburse funds from the tuition recovery fund to settle or compromise the claims. However, the liability of the fund for claims against the closed entity shall not exceed that total amount of the contribution schedule assigned to that entity under subsection (5) of this section.

(d) The agency shall seek to recover such disbursed funds from the assets of the defaulted entity, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(10) When funds are disbursed to settle claims against a current licensee, the agency shall make demand upon the licensee for recovery. The agency shall adopt schedules of times and amounts acceptable for effecting recoveries. An entity's failure to perform subjects its license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies.

(11) A minimum operating balance of two hundred thousand dollars shall be maintained in the fund. If disbursements reduce the balance below two hundred thousand dollars, each participating entity shall be assessed a prorata share of the deficiency created, based upon the incremental scale created under subsection (5) of this section. The agency shall promptly adopt schedules of times and amounts acceptable for affecting payments of assessments. [1990 c 188 § 8; 1987 c 459 § 1.]

**Severability**—1990 c 188: See note following RCW 28C.04.015.

**28C.10.110 Unfair business practices.** It is an unfair business practice for a private vocational school or agent to:

(1) Fail to comply with the terms of a student enrollment contract or agreement;

(2) Use an enrollment contract form, catalog, brochure, or similar written material affecting the terms and conditions of student enrollment other than that

previously submitted to the agency and authorized for use;

(3) Advertise in the help wanted section of a newspaper or otherwise represent falsely, directly or by implication, that the school is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a school;

(4) Represent falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation, or profession;

(5) Represent falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(6) Represent falsely, directly or by implication, in advertising or in any other manner, the school's size, location, facilities, equipment, faculty qualifications, or the extent or nature of any approval received from an accrediting association;

(7) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated;

(8) Provide prospective students with any testimonial, endorsement, or other information which has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable earnings in the occupation for which the education was designed;

(9) Designate or refer to sales representatives as "counselors," "advisors," or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives;

(10) Make or cause to be made any statement or representation in connection with the offering of education if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(11) Engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair, as determined by the agency by rule; or

(12) Attempt to recruit students in or within forty feet of a building that contains a welfare or unemployment office. Recruiting includes, but is not limited to canvassing and surveying. Recruiting does not include leaving materials at or near an office for a person to pick up of his or her own accord, or handing a brochure or leaflet to a person provided that no attempt is made to obtain a name, address, telephone number, or other data, or to otherwise actively pursue the enrollment of the individual.

It is a violation of this chapter for a private vocational school to engage in an unfair business practice. [1990 c 188 § 9; 1986 c 299 § 11.]

**Severability**—1990 c 188: See note following RCW 28C.04.015.

**28C.10.120 Complaints—Investigations—Hearings—Remedies.** (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the agency. The complaint shall set forth the alleged violation and shall contain information required by the agency. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and may attempt to bring about a settlement. The agency may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred.

(3) If, after the hearing, the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order full or partial restitution for the loss. The complainant is not bound by the agency's determination of restitution and may pursue any other legal remedy.

(4) If the agency prevails in any administrative hearing, the private vocational school shall pay the costs of the administrative hearing. [1990 c 188 § 10; 1989 c 175 § 83; 1986 c 299 § 12.]

**Severability**—1990 c 188: See note following RCW 28C.04.015.

**Effective date**—1989 c 175: See note following RCW 34.05.010.

### Chapter 28C.15

#### VOCATIONAL TECHNOLOGY CENTER

##### Sections

28C.15.010 through 28C.15.030 Repealed.

28C.15.900 Repealed.

**28C.15.010 through 28C.15.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Contingency**—1991 c 238 §§ 93–101, 156: See note following RCW 28B.50.305.

**28C.15.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Contingency**—1991 c 238 §§ 93–101, 156: See note following RCW 28B.50.305.

### Chapter 28C.18

#### WORK FORCE TRAINING AND EDUCATION

##### Sections

28C.18.005 Findings.

28C.18.010 Definitions.

28C.18.020 Work force training and education coordinating board.

28C.18.030 Purpose of the board.

28C.18.040 Director's duties.

28C.18.050 Board designation for federal purposes—Monitoring state plans for consistency.

28C.18.060 Board's duties.

28C.18.900 Effective dates—Severability—1991 c 238.

**28C.18.005 Findings.** The legislature finds that the state's system of work force training and education is inadequate for meeting the needs of the state's workers, employers, and economy. A growing shortage of skilled workers is already hurting the state's economy. There is a shortage of available workers and too often prospective employees lack the skills and training needed by employers. Moreover, with demographic changes in the state's population employers will need to employ a more culturally diverse work force in the future.

The legislature further finds that the state's current work force training and education system is fragmented among numerous agencies, councils, boards, and committees, with inadequate overall coordination. No comprehensive strategic plan guides the different parts of the system. There is no single point of leadership and responsibility. There is insufficient guidance from employers and workers built into the system to ensure that the system is responsive to the needs of its customers. Adult work force education lacks a uniform system of governance, with an inefficient division in governance between community colleges and vocational technical institutes, and inadequate local authority. The parts of the system providing adult basic skills and literacy education are especially uncoordinated and lack sufficient visibility to adequately address the needs of the large number of adults in the state who are functionally illiterate. The work force training and education system's data and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so that the system may be held accountable for the outcomes it produces. Much of the work force training and education system provides inadequate opportunities to meet the needs of people from culturally diverse backgrounds. Finally, our educational institutions are not producing the number of people educated in vocational/technical skills needed by employers.

The legislature recognizes that we must make certain that our institutions of education place appropriate emphasis on the needs of employers and on the needs of the approximately eighty percent of our young people who enter the world of work without completing a four-year program of higher education. We must make our work force education and training system better coordinated, more efficient, more responsive to the needs of business and workers and local communities, more accountable for its performance, and more open to the needs of a culturally diverse population. [1991 c 238 § 1.]

**28C.18.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Board" means the work force training and education coordinating board.

(2) "Director" means the director of the work force training and education coordinating board.

(3) "Training system" means programs and courses of secondary vocational education, technical college programs and courses, community college vocational programs and courses, adult basic education programs and courses, programs and courses funded by the job training partnership act, programs and courses funded by the federal vocational act, programs and courses funded under the federal adult education act, publicly funded programs and courses for adult literacy education, and apprenticeships, and programs and courses offered by private and public nonprofit organizations that are representative of communities or significant segments of communities and provide job training or adult literacy services.

(4) "Work force skills" means skills developed through applied learning that strengthen and reinforce an individual's academic knowledge, critical thinking, problem solving, and work ethic and, thereby, develop the employability, occupational skills, and management of home and work responsibilities necessary for economic independence.

(5) "Vocational education" means organized educational programs offering a sequence of courses which are directly related to the preparation or retraining of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(6) "Adult basic education" means instruction designed to achieve mastery of skills in reading, writing, oral communication, and computation at a level sufficient to allow the individual to function effectively as a parent, worker, and citizen in the United States, commensurate with that individual's actual ability level, and includes English as a second language and preparation and testing service for the general education development exam. [1991 c 238 § 2.]

**28C.18.020 Work force training and education coordinating board.** (1) There is hereby created the work force training and education coordinating board as a state agency and as the successor agency to the state board for vocational education. Once the coordinating board has convened, all references to the state board for vocational education in the Revised Code of Washington shall be construed to mean the work force training and education coordinating board, except that reference to the state board for vocational education in RCW 49.04-.030 shall mean the state board for community and technical colleges.

(2)(a) The board shall consist of nine voting members appointed by the governor with the consent of the senate, as follows: Three representatives of business, three

representatives of labor, and, serving as ex officio members, the superintendent of public instruction, the executive director of the state board for community and technical colleges, and the commissioner of the employment security department. The chair of the board shall be a nonvoting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role that the state's training system has in meeting those needs. Each voting member of the board may appoint a designee to function in his or her place with the right to vote. In making appointments to the board, the governor shall seek to ensure geographic, ethnic, and gender diversity and balance. The governor shall also seek to ensure diversity and balance by the appointment of persons with disabilities.

(b) The business representatives shall be selected from among nominations provided by a state-wide business organization representing a cross-section of industries. However, the governor may request, and the organization shall provide, an additional list or lists from which the governor shall select the business representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities, and diversity in sizes of businesses.

(c) The labor representatives shall be selected from among nominations provided by state-wide labor organizations. However, the governor may request, and the organizations shall provide, an additional list or lists from which the governor shall select the labor representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities.

(d) Each business member may cast a proxy vote or votes for any business member who is not present and who authorizes in writing the present member to cast such vote.

(e) Each labor member may cast a proxy vote for any labor member who is not present and who authorizes in writing the present member to cast such vote.

(f) The chair shall appoint to the board one nonvoting member to represent racial and ethnic minorities, women, and people with disabilities. The nonvoting member appointed by the chair shall serve for a term of four years with the term expiring on June 30th of the fourth year of the term.

(g) The business members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(h) The labor members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(i) Any vacancies among board members representing business or labor shall be filled by the governor with

nominations provided by state-wide organizations representing business or labor, respectively.

(j) The board shall adopt bylaws and shall meet at least bimonthly and at such other times as determined by the chair who shall give reasonable prior notice to the members or at the request of a majority of the voting members.

(k) Members of the board shall be compensated in accordance with RCW 43.03.040 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(l) The board shall be formed and ready to assume its responsibilities under this chapter by October 1, 1991.

(m) The director of the board shall be appointed by the governor from a list of three names submitted by a committee made up of the business and labor members of the board. However, the governor may request, and the committee shall provide, an additional list or lists from which the governor shall select the director. The lists compiled by the committee shall not be subject to public disclosure. The governor may dismiss the director only with the approval of a majority vote of the board. The board, by a majority vote, may dismiss the director with the approval of the governor.

(3) The state board for vocational education is hereby abolished and its powers, duties, and functions are hereby transferred to the work force training and education coordinating board. All references to the director or the state board for vocational education in the Revised Code of Washington shall be construed to mean the director or the work force training and education coordinating board. [1991 c 238 § 3.]

**28C.18.030 Purpose of the board.** The purpose of the board is to provide planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole, and advice to the governor and legislature concerning the state training system, in cooperation with the agencies which comprise the state training system, and the higher education coordinating board. [1991 c 238 § 4.]

**28C.18.040 Director's duties.** (1) The director shall serve as chief executive officer of the board who shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, and utilize staff of existing operating agencies to the fullest extent possible.

(2) The director shall not be the chair of the board.

(3) Subject to the approval of the board, the director shall appoint necessary deputy and assistant directors and other staff who shall be exempt from the provisions of chapter 41.06 RCW. The director's appointees shall serve at the director's pleasure on such terms and conditions as the director determines but subject to the code of ethics contained in chapter 42.18 RCW.

(4) The director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the board.

(5) The director shall, as permissible under P.L. 101-392, as amended, integrate the staff of the council on

vocational education, and contract with the state board for community and technical colleges for assistance for adult basic skills and literacy policy development and planning as required by P.L. 100-297, as amended. [1991 c 238 § 5.]

**28C.18.050 Board designation for federal purposes—Monitoring state plans for consistency.** (1) The board shall be designated as the state board of vocational education as provided for in P.L. 98-524, as amended, and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law.

(2) The board shall monitor for consistency with the state comprehensive plan for work force training and education the policies and plans established by the state job training coordinating council, the advisory council on adult education, and the Washington state plan for adult basic education, and provide guidance for making such policies and plans consistent with the state comprehensive plan for work force training and education. [1991 c 238 § 6.]

**28C.18.060 Board's duties.** The board, in cooperation with the operating agencies of the state training system shall:

(1) Concentrate its major efforts on planning, coordination evaluation, policy analysis, and recommending improvements to the state's training system.

(2) Advocate for the state training system and for meeting the needs of employers and the work force for work force education and training.

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs.

(4) Develop and maintain a state comprehensive plan for work force training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for work force training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community.

(5) In consultation with the higher education coordinating board, review and make recommendations to the office of financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for work force training and education.

(6) Provide for coordination among the different operating agencies of the state training system at the state level and at the regional level.

(7) Develop a consistent and reliable data base on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state.

(8) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system.

The board shall develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system.

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of program participants and employers of program participants, and monitor such program evaluation.

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system.

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations.

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system.

(13) Provide for effectiveness and efficiency reviews of the state training system.

(14) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary work force education and two years of postsecondary work force education.

(15) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system.

(16) Participate in the development of coordination criteria for activities under the job training partnership act with related programs and services provided by state and local education and training agencies.

(17) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education.

(18) Establish and administer programs for marketing and outreach to businesses and potential program participants.

(19) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system.

(20) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling.

(21) Facilitate programs for school-to-work transition that combine classroom education and on-the-job training in industries and occupations without a significant number of apprenticeship programs.

(22) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities.

(23) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended.

(24) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence.

(25) Allocate funding from the state job training trust fund.

(26) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section. [1991 c 238 § 7.]

**28C.18.900 Effective dates—Severability—1991 c 238.** See RCW 28B.50.917 and 28B.50.918.

### Chapter 28C.20

#### WASHINGTON STATE COUNCIL ON VOCATIONAL EDUCATION

##### Sections

- 28C.20.010 Council created—Work force training and education coordinating board to monitor.  
28C.20.020 Membership of council.  
28C.20.030 Functions consistent with state comprehensive plan for work force training and education.  
28C.20.900 Effective dates—Severability—1991 c 238.

**28C.20.010 Council created—Work force training and education coordinating board to monitor.** (1) There is hereby created the Washington state council on vocational education for so long as a state council is required by federal law or regulation as a condition for receipt of federal funds. The council on vocational education shall perform all duties of councils on vocational education as specified in P.L. 101–392, as amended.

(2) The work force training and education coordinating board shall monitor the need for the council as described in subsection (1) of this section, and, if that need no longer exists, propose legislation to terminate the council. [1991 c 238 § 16.]

**28C.20.020 Membership of council.** Current members of the Washington state council on vocational education appointed pursuant to P.L. 98–524, as amended, shall serve as the state council on vocational education for purposes of this chapter until new appointments are made consistent with this section. New appointments to the state council on vocational education shall be made by July 1, 1991. The council on vocational education shall consist of thirteen members appointed by the governor consistent with the provisions of P.L. 101–392, as amended. In making these appointments, to the maximum extent feasible, the governor shall give consideration to providing overlapping membership with the membership of the state job training coordinating council. [1991 c 238 § 17.]

**28C.20.030 Functions consistent with state comprehensive plan for work force training and education.** The council on vocational education shall perform its functions consistent with the state comprehensive plan for work force training and education prepared by the work force training and education coordinating board as provided for in RCW 28C.18.060. [1991 c 238 § 18.]

**28C.20.900 Effective dates—Severability—1991 c 238.** See RCW 28B.50.917 and 28B.50.918.

## Title 29 ELECTIONS

### Chapters

- 29.01 Definitions.  
29.04 General provisions.  
29.07 Registration of voters.  
29.10 Registration transfers and cancellations.  
29.13 Times for holding elections and primaries.  
29.15 Filing for office.  
29.18 Partisan primaries.  
29.21 Nonpartisan primaries and elections.  
29.24 Nominations other than by primary.  
29.27 Certificates and notices.  
29.30 Ballots.  
29.33 Voting systems.  
29.34 Voting devices and vote tallying systems.  
29.36 Absentee voting.  
29.42 Political parties.  
29.45 Precinct election officers.  
29.48 Polling place regulations before polls open.  
29.51 Polling place regulations during voting hours.  
29.54 Polling place regulations during voting hours and after closing.  
29.62 Canvassing the returns.  
29.64 Statutory recount proceedings.  
29.68 United States congressional elections.  
29.71 United States presidential electors.  
29.74 United States constitutional amendment conventions.  
29.82 The recall.  
29.85 Crimes and penalties.

### Chapter 29.01 DEFINITIONS

#### Sections

- 29.01.006 Ballot and related terms. (Effective July 1, 1992.)  
29.01.008 Canvassing. (Effective July 1, 1992.)  
29.01.042 Counting center. (Effective July 1, 1992.)  
29.01.050 Election. (Effective July 1, 1992.)  
29.01.068 Filing officer. (Effective July 1, 1992.)  
29.01.155 Service voter.  
29.01.200 Voting system, device, tallying system. (Effective July 1, 1992.)

**29.01.006 Ballot and related terms.** (Effective July 1, 1992.) As used in this title:

- (1) "Ballot" means, as the context implies, either:
- The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;
  - A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;
  - A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or
  - The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election. [1990 c 59 § 2; 1977 ex.s. c 361 § 1.]

**Intent**—1990 c 59: "By this act the legislature intends to unify and simplify the laws and procedures governing filing for elective office, ballot layout, ballot format, voting equipment, and canvassing." [1990 c 59 § 1.]

**Effective date**—1990 c 59: "Sections 1 through 6, 8 through 96, and 98 through 112 of this act shall take effect July 1, 1992." [1990 c 59 § 113.]

The above two annotations apply to 1990 c 59. For codification of that act, see Codification Tables, Supplement Volume 9A.

**Effective date**—1977 ex.s. c 361: "This 1977 amendatory act shall take effect January 1, 1978." [1977 ex.s. c 361 § 113.]

**Severability**—1977 ex.s. c 361: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 361 § 112.]

**29.01.008 Canvassing. (Effective July 1, 1992.)** "Canvassing" means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of and prepare the certification for a primary or general election and includes the tabulation of any votes for that primary or election that were not tabulated at the precinct or in a counting center on the day of the primary or election. [1990 c 59 § 3.]

**Intent**—Effective date—1990 c 59: See notes following RCW 29.01.006.

**29.01.042 Counting center. (Effective July 1, 1992.)** "Counting center" means the facility or facilities designated by the county auditor in which the canvassing of ballots on a vote tallying system is conducted on the day of a primary or election. [1990 c 59 § 4.]

**Intent**—Effective date—1990 c 59: See notes following RCW 29.01.006.

**29.01.050 Election. (Effective July 1, 1992.)** "Election" when used alone means a general election except where the context indicates that a special election is included. "Election" when used without qualification does not include a primary. [1990 c 59 § 5; 1965 c 9 § 29.01.050. Prior: 1907 c 209 § 1, part; RRS § 5177(c). See also 1950 ex.s. c 14 § 3.]

**Intent**—Effective date—1990 c 59: See notes following RCW 29.01.006.

**29.01.068 Filing officer. (Effective July 1, 1992.)** "Filing officer" means the county or state officer with whom declarations of candidacy for an office are required to be filed under this title. [1990 c 59 § 77.]

**Intent**—Effective date—1990 c 59: See notes following RCW 29.01.006.

**29.01.155 Service voter. "Service voter"** means any elector of the state of Washington who is a member of the armed forces under 42 U.S.C. Sec. 1973 ff-6 while in active service, is a student or member of the faculty at a United States military academy, is a member of the merchant marine of the United States, is a program participant as defined in RCW 40.24.020, or is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States. [1991 c 23 § 13; 1987 c 346 § 8.]

**Effective dates**—1991 c 23: See RCW 40.24.900.

**Legislative intent**—Effective date—1987 c 346: See notes following RCW 29.36.010.

**29.01.200 Voting system, device, tallying system. (Effective July 1, 1992.)** (1) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a primary or election or to canvass the votes cast in a primary or election;

(2) "Voting device" means a piece of equipment used for the purpose of or to facilitate the marking of a ballot to be tabulated by a vote tallying system or a piece of mechanical or electronic equipment used to directly record votes and to accumulate results for a number of issues or offices from a series of voters; and

(3) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes. [1990 c 59 § 6.]

**Intent**—Effective date—1990 c 59: See notes following RCW 29.01.006.

## Chapter 29.04

### GENERAL PROVISIONS

#### Sections

29.04.180	Write-in voting—Candidates, declaration. (Effective July 1, 1992.)
29.04.200	Voting devices, machines—Recording requirements.
29.04.210	Ballots, voting systems—Rules by secretary of state.
29.04.220	Information on geographical boundaries. (Effective until July 1, 1992.)
29.04.220	Recodified as RCW 29.15.026. (Effective July 1, 1992.)
29.04.230	Electronic facsimile documents—Acceptance of.
29.04.235	Electronic facsimile documents—Rules.

**29.04.180 Write-in voting—Candidates, declaration. (Effective July 1, 1992.)** Any person who desires to be a write-in candidate and have such votes counted at a primary or election may, if the jurisdiction of the office sought is entirely within one county, file a declaration of candidacy with the county auditor not later

than the day before the primary or election. If the jurisdiction of the office sought encompasses more than one county the declaration of candidacy shall be filed with the secretary of state not later than the day before the primary or election. Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by political parties pursuant to RCW 29.18.160 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if applicable.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29.15.010. No write-in candidate filing under RCW 29.04.180 may be included in any voter's pamphlet produced under chapter 29.80 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29.81A RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets. [1990 c 59 § 100; 1988 c 181 § 1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.04.200 Voting devices, machines—Recording requirements.** (1) Beginning January 1, 1993, no voting device or machine may be used in a county with a population of seventy thousand or more to conduct a primary or general or special election in this state unless it correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.

(2) Beginning January 1, 1993, the secretary of state shall not certify under this title any voting device or machine for use in conducting a primary or general or special election in this state unless the device or machine correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.

(3) Beginning January 1, 1993, a county with a population of less than seventy thousand may use a voting machine or device for conducting a primary or general or special election which does not record on a separate ballot, available for audit purposes after the primary or

election, the votes cast by each elector for any person and for or against any measure if:

(a) The device was certified under this title before January 1, 1993, for use in this state;

(b) The device otherwise satisfies the requirements of this title; and

(c) Not more than twenty percent of the votes cast during any primary or general or special election conducted after January 1, 1998, in the county are cast using such a machine or device.

(4) The purpose of subsection (3) of this section is to permit less populous counties to replace voting equipment in stages over several years. These less populous counties are, nonetheless, encouraged to secure as expeditiously as possible voting equipment which would satisfy the requirements of subsection (1) of this section established for more populous counties. The secretary of state shall report to the legislature by January 1st of each odd-numbered year through 1997 on the progress of such less populous counties in replacing equipment which does not satisfy the requirements of subsection (1) of this section established for more populous counties. [1991 c 363 § 30; 1990 c 184 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**29.04.210 Ballots, voting systems—Rules by secretary of state.** The secretary of state shall adopt rules to:

(1) Establish standards for the design, layout, and production of ballots;

(2) Provide for the examination and testing of voting systems for certification;

(3) Specify the source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;

(4) Establish standards and procedures for the acceptance testing of voting systems by counties;

(5) Establish standards and procedures for testing the programming of vote tallying software for specific primaries and elections;

(6) Establish standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;

(7) Establish standards and procedures to ensure the accurate tabulation and canvassing of ballots;

(8) Provide consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;

(9) Ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;

(10) Govern the use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device and from the substitute device or means, and the documentation that must be submitted to the county auditor regarding such circumstances; and

(11) Govern the transportation of sealed containers of voted ballots or sealed voting devices.

The secretary shall publish proposed rules implementing this section not later than December 15, 1991. [1990 c 59 § 7.]

**Intent**—1990 c 59: See note following RCW 29.01.006.

**29.04.220 Information on geographical boundaries.** (Effective until July 1, 1992.) (1) The legislative authority of each county and each city, town, and special purpose district which lies entirely within the county shall provide the county auditor accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the auditor is kept current.

(2) A city, town, or special purpose district that lies in more than one county shall provide the secretary of state accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the secretary is kept current. The secretary of state shall promptly transmit to each county in which a city, town, or special purpose district is located information regarding the boundaries of that jurisdiction which is provided to the secretary. [1991 c 178 § 2.]

**29.04.220 Recodified as RCW 29.15.026.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.04.230 Electronic facsimile documents—Acceptance of.** The secretary of state or a county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

- (1) Declarations and affidavits of candidacy;
- (2) County canvass reports;
- (3) Candidates' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a mandatory recount;
- (8) Requests for absentee ballots;
- (9) Any other election related document authorized by rule adopted by the secretary of state under RCW 29.04.235.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy shall be subsequently filed with the official with whom the facsimile was filed. The original copy shall be filed by a deadline established by the secretary by rule. The secretary may by rule require that the original of any document, a copy

of which is filed by facsimile transmission under this section, also be filed by a deadline established by the secretary by rule. [1991 c 186 § 1.]

**29.04.235 Electronic facsimile documents—Rules.** The secretary of state shall adopt rules in accordance with chapter 34.05 RCW to implement RCW 29.04.230. [1991 c 186 § 2.]

**Chapter 29.07**

**REGISTRATION OF VOTERS**

Sections	
29.07.070	Information from voter as to qualifications. (Effective January 1, 1992.)
29.07.080	Oath of applicant. (Effective January 1, 1992.)
29.07.130	Registration records—Originals and automated files—Public access. (Effective July 1, 1992.)
29.07.140	Form of registration records—Single completion—Furnished by secretary of state.
29.07.151	Repealed. (Effective July 1, 1992.)
29.07.220	Computer file of voter registration records—Establishment—Duties of county auditor. (Effective July 1, 1992.)
29.07.260	Registration with driver's license application, renewal—Procedures for. (Effective January 1, 1992.)
29.07.270	Duties of secretary of state and department of licensing. (Effective January 1, 1992.)
29.07.280	Forwarding of forms to voter's county. (Effective January 1, 1992.)
29.07.290	Records—Correction, sorting, transmittal. (Effective January 1, 1992.)
29.07.300	Delivery of files to auditors. (Effective January 1, 1992.)
29.07.310	Driver licensing and voter registration—Duties of secretary of state.
29.07.320	Driver licensing and voter registration—Funding.
29.07.400	Registration law—Registrar violations. (Effective July 1, 1992.)
29.07.410	Registration law—Voter violations. (Effective July 1, 1992.)

**29.07.070 Information from voter as to qualifications.** (Effective January 1, 1992.) Except as provided under RCW 29.07.260, an applicant for voter registration shall provide a voter registrar with the following information concerning his or her qualifications as a voter in this state:

- (1) The address of the last former registration of the applicant as a voter in the state;
- (2) The applicant's full name;
- (3) The applicant's date of birth;
- (4) The address of the applicant's residence for voting purposes;
- (5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;
- (6) The sex of the applicant;
- (7) A declaration that the applicant is a citizen of the United States; and
- (8) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

The following warning shall appear in a conspicuous place on the voter registration form:

"Knowingly providing false information on this voter registration form or knowingly making a false declaration about your qualifications for registration is a class C felony that is punishable by imprisonment for up to five years, or by a fine not to exceed ten thousand dollars, or by both such imprisonment and fine." [1990 c 143 § 7; 1973 1st ex.s. c 21 § 3; 1971 ex.s. c 202 § 9; 1965 c 9 § 29.07.070. Prior: 1947 c 68 § 3, part; 1933 c 1 § 11, part; Rem. Supp. 1947 § 5114-11, part; prior: 1921 c 177 § 7, part; 1915 c 16 § 8, part; 1901 c 135 § 4, part; 1893 c 45 § 3, part; 1889 p 416 § 8, part; RRS § 5126, part.]

**Effective date**—1990 c 143 §§ 1-8: See note following RCW 29.07.260.

*Civil disabilities of wife abolished:* RCW 26.16.160.

*Copy of instrument restoring civil rights as evidence:* RCW 5.44.090.

*Qualifications of electors: State Constitution Art. 6 § 1 (Amendment 5).*

*Residence defined:* RCW 29.01.140.

*Restoration of civil rights: Chapter 9.96 RCW.*

*Subversive activities as disqualification for voting:* RCW 9.81.040.

*United States constitutional amendment conventions, delegates, qualifications of voters: RCW 29.74.090.*

*Who disqualified: State Constitution Art. 6 § 3.*

**29.07.080 Oath of applicant.** (Effective January 1, 1992.) For voter registrations executed under this section, the registrar shall require the applicant to sign the following oath:

"I declare that the facts relating to my qualifications as a voter recorded on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of an infamous crime, I will have lived in this state, county, and precinct for thirty days immediately preceding the next election at which I offer to vote, and I will be at least eighteen years of age at the time of voting."

The registration officer shall attest and date this oath in the following form:

"Subscribed and sworn to before me this ----- day of -----, 19--, ----- Registration Officer."

[1990 c 143 § 8; 1973 1st ex.s. c 21 § 4; 1971 ex.s. c 202 § 10; 1965 c 9 § 29.07.080. Prior: 1933 c 1 § 12; RRS § 5114-12.]

**Effective date**—1990 c 143 §§ 1-8: See note following RCW 29.07.260.

**29.07.130 Registration records—Originals and automated files—Public access.** (Effective July 1, 1992.) (1) The cards required by RCW 29.07.090 shall be kept on file in the office of the secretary of state in such manner as will be most convenient for, and for the sole purpose of, checking initiative and referendum petitions. The secretary may maintain an automated file of voter registration information for any county or counties in lieu of filing or maintaining these voter registration cards if the automated file includes all of the information from the cards including, but not limited to, a retrievable facsimile of the signature of each voter of that

county or counties. Such an automated file may be used only for the purpose authorized for the use of the cards.

(2) The county auditor shall have custody of the voter registration records for each county. The original voter registration form, as established by RCW 29.07.070, shall be filed alphabetically without regard to precinct. An automated file of all registered voters shall be maintained pursuant to RCW 29.07.220. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(3) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying: The voter's name, gender, voting record, date of registration, and registration number. The address of a registered voter or addresses of a group of voters are available for public inspection and copying except to the extent that the address of a particular voter is not so available under RCW 42.17.310(1)(bb). The political jurisdictions within which a voter or group of voters reside are also available for public inspection and copying except that the political jurisdictions within which a particular voter resides are not available for such inspection and copying if the address of the voter is not so available under RCW 42.17.310(1)(bb). No other information from voter registration records or files is available for public inspection or copying. [1991 c 81 § 21; 1971 ex.s. c 202 § 17; 1965 c 9 § 29.07.130. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

**Effective date**—1991 c 81: See note following 29.85.010.

**29.07.140 Form of registration records—Single completion—Furnished by secretary of state.** (1) The secretary of state shall specify by rule the form of the voter registration records required under RCW 29.07.070 and 29.07.260. These forms shall be compatible with existing voter registration records. An applicant for voter registration shall be required to complete only one form and to provide the required information other than his or her signature no more than one time.

These forms shall also contain information for the voter to transfer his or her registration.

(2) The secretary of state shall adopt by rule a uniform data format for transferring voter registration records on machine-readable media.

(3) All registration forms required under RCW 29.07.070 and 29.07.260 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.

(4) The secretary of state shall produce and distribute any instructional material and other supplies needed to implement RCW 29.07.260 through 29.07.300 and 46.20.155. [1990 c 143 § 9; 1973 1st ex.s. c 21 § 7; 1971 ex.s. c 202 § 18; 1965 c 9 § 29.07.140. Prior: (i) 1933 c 1 § 30; RRS § 5114-30. (ii) 1933 c 1 § 13, part; RRS § 5114-13, part.]

**29.07.151 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.07.220 Computer file of voter registration records—Establishment—Duties of county auditor.** (Effective July 1, 1992.) Each county auditor shall maintain a computer file on magnetic tape or disk, punched cards, or other form of data storage containing the records of all registered voters within the county. Where it is necessary or advisable, the auditor may provide for the establishment and maintenance of such files by private contract or through interlocal agreement as provided by chapter 39.34 RCW, as it now exists or is hereafter amended. The computer file shall include, but not be limited to, each voter's name, residence address, sex, date of registration, applicable taxing district and precinct codes and the last date on which the individual voted. The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain at least the last five such consecutive dates: **PROVIDED**, That if the voter has not voted at least five times since establishing his or her current registration record, only the available dates shall be included. [1991 c 81 § 22; 1974 ex.s. c 127 § 12.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**29.07.260 Registration with driver's license application, renewal—Procedures for.** (Effective January 1, 1992.) (1) A person may register to vote or transfer a voter registration when he or she applies for or renews a driver's license or identification card under chapter 46.20 RCW.

(2) To register to vote or transfer a voter registration under this section, the applicant shall provide the following:

- (a) His or her full name;
- (b) Whether the address in the driver's license file is the same as his or her residence for voting purposes;
- (c) The address of the residence for voting purposes if it is different from the address in the driver's license file;
- (d) His or her mailing address if it is not the same as the address in (c) of this subsection;
- (e) Additional information on the physical location of that voting residence if it is only identified by route or box;
- (f) The last address at which he or she was registered to vote in this state;
- (g) A declaration that he or she is a citizen of the United States; and
- (h) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and to prevent duplicate or fraudulent voter registrations.

(3) The following warning shall appear in a conspicuous place on the voter registration form:  
"Knowingly providing false information on this voter registration form or knowingly making a false declaration about your qualifications for registration is a class C felony that is punishable by imprisonment for up to

five years, or by a fine not to exceed ten thousand dollars, or by both such imprisonment and fine."

(4) The applicant shall sign a portion of the form that can be used as an initiative signature card for the verification of petition signatures by the secretary of state and shall sign and attest to the following oath:

"I declare that the facts relating to my qualifications as a voter recorded on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of an infamous crime, I will have lived in this state, county, and precinct for thirty days immediately preceding the next election at which I offer to vote, and I will be at least eighteen years of age at the time of voting."

(5) The driver licensing agent shall record that the applicant has requested to register to vote or transfer a voter registration. [1990 c 143 § 1.]

**Effective date—1990 c 143 §§ 1-8:** "Sections 1 through 8 of this act shall take effect January 1, 1992." [1990 c 143 § 13.]

*Driver licensing agents duties regarding voter registration: RCW 46.20.155.*

**29.07.270 Duties of secretary of state and department of licensing.** (Effective January 1, 1992.) (1) The secretary of state shall provide for the voter registration forms submitted under RCW 29.07.260 to be collected from each driver's licensing facility at least once each week.

(2) The department of licensing shall produce and transmit to the secretary of state a machine-readable file containing the following information from the records of each individual who requested a voter registration or transfer at a driver's license facility during each period for which forms are transmitted under subsection (1) of this section: The name, address, date of birth, and sex of the applicant and the driver's license number, the date on which the application for voter registration or transfer was submitted, and the location of the office at which the application was submitted. [1990 c 143 § 2.]

**Effective date—1990 c 143 §§ 1-8:** See note following RCW 29.07.260.

**29.07.280 Forwarding of forms to voter's county.** (Effective January 1, 1992.) The voter registration forms from the driver's licensing facilities shall be forwarded to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were to be collected under RCW 29.07.270(1). [1990 c 143 § 3.]

**Effective date—1990 c 143 §§ 1-8:** See note following RCW 29.07.260.

**29.07.290 Records—Correction, sorting, transmittal.** (Effective January 1, 1992.) (1) For any voter registration application where the address for voting purposes is different from the address in the machine-readable file received from the department of licensing, the secretary of state shall amend the record of that application in the machine-readable file to reflect the county in which the applicant has registered to vote.

(2) The secretary of state shall sort the records in the machine-readable file according to the county in which the applicant registered to vote and produce a file of voter registration transactions for each county. The records of each county shall be transmitted on or through whatever medium the county auditor determines will best facilitate the incorporation of these records into the existing voter registration files of that county.

(3) The secretary of state shall produce a list of voter registration transactions for each county and transmit a copy of this list to that county with each file of voter registration transactions. [1990 c 143 § 4.]

**Effective date**—1990 c 143 §§ 1-8: See note following RCW 29.07.260.

**29.07.300 Delivery of files to auditors.** (Effective January 1, 1992.) The secretary of state shall deliver the files and lists of voter registration information produced under RCW 29.07.290 to the county auditors no later than ten days after the date on which that information was to be transmitted under RCW 29.07.270(1). The county auditor shall process these records in the same manner as voter registrations executed under RCW 29.07.080. [1990 c 143 § 5.]

**Effective date**—1990 c 143 §§ 1-8: See note following RCW 29.07.260.

**29.07.310 Driver licensing and voter registration—Duties of secretary of state.** The secretary of state shall:

(1) Coordinate with the department of licensing and county auditors on the implementation of RCW 29.07.260 through 29.07.300 and 46.20.155;

(2) Adopt rules governing the delivery and processing of voter registrations submitted under RCW 29.07.260 and insuring the integrity of the voter registration process and of the data on registered voters collected under RCW 29.07.260 through 29.07.300 and 46.20.155;

(3) Develop and enter into interlocal agreements with county auditors and with the department of licensing governing the systems development, testing, implementation, and other data processing services provided by the county auditors and the department of licensing in carrying out RCW 29.07.260 through 29.07.300 and 46.20.155 and providing for the reimbursement of all costs to county auditors and the department of licensing for these data processing services. [1990 c 143 § 10.]

**29.07.320 Driver licensing and voter registration—Funding.** The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out the purposes of RCW 29.07.260 through 29.07.300 and 46.20.155, including the reimbursement of costs to county auditors and the department of licensing under RCW 29.07.310(3). [1990 c 143 § 11.]

**29.07.400 Registration law—Registrar violations.** (Effective July 1, 1992.) If any registrar or deputy registrar:

(1) Willfully neglects or refuses to perform any duty required by law in connection with the registration of voters; or

(2) Willfully neglects or refuses to perform such duty in the manner required by voter registration law; or

(3) Enters or causes or permits to be entered on the voter registration records the name of any person in any other manner or at any other time than as prescribed by voter registration law or enters or causes or permits to be entered on such records the name of any person not entitled to be thereon; or

(4) Destroys, mutilates, conceals, changes, or alters any registration record in connection therewith except as authorized by voter registration law, he or she is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 11; 1965 c 9 § 29.85.190. Prior: 1933 c 1 § 26; RRS § 5114-26; prior: 1889 p 418 § 15; RRS § 5133. Formerly RCW 29.85.190.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.07.410 Registration law—Voter violations.** (Effective July 1, 1992.) Any person who:

(1) Knowingly provides false information on an application for voter registration under any provision of this title;

(2) Knowingly makes or attests to a false declaration as to his or her qualifications as a voter;

(3) Knowingly causes or permits himself or herself to be registered using the name of another person;

(4) Knowingly causes himself or herself to be registered under two or more different names; or

(5) Knowingly causes any person to be registered or causes any registration to be transferred or canceled except as authorized under this title,

is guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 12; 1990 c 143 § 12; 1977 ex.s. c 361 § 110; 1965 c 9 § 29.85.200. Prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136. Formerly RCW 29.85.200.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Effective date—Severability**—1977 ex.s. c 361: See notes following RCW 29.01.006.

## Chapter 29.10

### REGISTRATION TRANSFERS AND CANCELLATIONS

Sections	
29.10.020	Transfer from one address to another in same county—Rules on transfer by telephone. (Effective July 1, 1992.)
29.10.030	Repealed. (Effective July 1, 1992.)
29.10.040	Reregistration on transfer to another county. (Effective July 1, 1992.)
29.10.050	Repealed. (Effective July 1, 1992.)
29.10.051	Voter name change. (Effective July 1, 1992.)
29.10.110	Record of cancellations. (Effective July 1, 1992.)
29.10.120	Repealed. (Effective July 1, 1992.)
29.10.150	Challenge of registration—Forms, availability. (Effective July 1, 1992.)
29.10.160	Repealed. (Effective July 1, 1992.)
29.10.170	Transfer on election day. (Effective July 1, 1992.)
29.10.180	Voter change-of-address—Inquiries of registration validity—Corrections and cancellations.

**29.10.020 Transfer from one address to another in same county—Rules on transfer by telephone.** (Effective July 1, 1992.) A registered voter who changes his or her residence from one address to another within the same county shall, to maintain a valid voter registration, transfer his or her registration to the new address in one of the following ways: (1) Sending to the county auditor a signed request stating the voter's present address and precinct and the address and precinct from which the voter was last registered; (2) appearing in person before the auditor and signing such a request; (3) transferring the registration in the manner provided by RCW 29.10.170; or (4) telephoning the county auditor to transfer the registration. The telephone call transferring a registration by telephone must be received by the auditor before the precinct registration files are closed to new registrations for the next primary or special or general election in which the voter participates.

The secretary of state shall adopt rules facilitating the transfer of a registration by telephone authorized by this section. The rules shall include, but need not be limited to, those establishing the form which must be signed by a voter subsequent to transferring a registration by telephone. [1991 c 81 § 23; 1975 1st ex.s. c 184 § 2; 1971 ex.s. c 202 § 24; 1965 c 9 § 29.10.020. Prior: 1955 c 181 § 4; prior: 1933 c 1 § 14, part; RRS § 5114-14, part; prior: 1919 c 163 § 9, part; 1915 c 16 § 9, part; 1889 p 417 § 12, part; RRS § 5129, part.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**Severability—1975 1st ex.s. c 184:** See note following RCW 29.07.092.

*Rural precinct defined: RCW 29.01.150.*

**29.10.030 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.10.040 Reregistration on transfer to another county.** (Effective July 1, 1992.) Except as provided in RCW 29.10.170, a registered voter who changes his or her residence from one county to another county, shall be required to register anew. Before registering anew, the voter shall sign an authorization to cancel his or her present registration. The authorization shall be on a form prescribed by the secretary of state by rule. The authorization shall be forwarded promptly to the county auditor of the county in which the voter was previously registered. The county auditor of the county where the previous registration was made shall cancel the registration of the voter if it appears that the signatures in the registration record and on the cancellation authorization form were made by the same person. [1991 c 81 § 24; 1977 ex.s. c 361 § 26; 1971 ex.s. c 202 § 26; 1965 c 9 § 29.10.040. Prior: 1933 c 1 § 15; RRS § 5114-15.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

*City precinct defined: RCW 29.01.030.*

*Precinct defined: RCW 29.01.120.*

*Residence defined: RCW 29.01.140.*

*Rural precinct defined: RCW 29.01.150.*

**29.10.050 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.10.051 Voter name change.** (Effective July 1, 1992.) To maintain a valid voter registration, a person who changes his or her name shall notify the county auditor regarding the name change in one of the following ways: (1) By sending the auditor a notice clearly identifying the name under which he or she is registered to vote, the voter's new name, and the voter's residence. Such a notice must be signed by the voter using both this former name and the voter's new name; (2) by appearing in person before the auditor or a deputy registrar and signing such a change-of-name notice; or (3) by signing such a change-of-name notice at the voter's precinct polling place on the day of a primary or special or general election.

A properly registered voter who files a change-of-name notice at the voter's precinct polling place during a primary or election and who desires to vote at that primary or election shall sign the poll book using the voter's former and new names in the same manner as is required for the change-of-name notice.

The secretary of state may adopt rules facilitating the implementation of this section. [1991 c 81 § 25.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**29.10.110 Record of cancellations.** (Effective July 1, 1992.) Every county auditor shall carefully preserve in a separate file or list the registration records of persons whose voter registrations have been canceled as authorized under this title. The files or lists shall be kept in the manner prescribed by rule by the secretary of state. Information from such canceled registration records is available for public inspection and copying to the same extent established by RCW 29.07.130 for other voter registration information.

The county auditor may destroy the voter registration information and records of any person whose voter registration has been canceled for a period of two years or more. [1991 c 81 § 26; 1971 ex.s. c 202 § 32; 1965 ex.s. c 156 § 1; 1965 c 9 § 29.10.110. Prior: 1961 c 32 § 2; 1947 c 85 § 5; 1933 c 1 § 21; Rem. Supp. 1947 § 5114-21.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**29.10.120 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.10.150 Challenge of registration—Forms, availability.** (Effective July 1, 1992.) The secretary of state as chief elections officer shall cause appropriate forms to be designed to carry out the provisions of RCW 29.10.130 through \*29.10.160. The county auditors and registrars shall have such forms available. Further, a reasonable supply of such forms shall be at each polling place on the day of a primary or election, general or special. [1991 c 81 § 27; 1971 ex.s. c 202 § 35; 1965 ex.s. c 156 § 4.]

\*Reviser's note: RCW 29.10.160 was repealed by 1991 c 81 § 41, effective July 1, 1992; the reference should be to RCW 29.10.140.

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.10.160 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.10.170 Transfer on election day. (Effective July 1, 1992.)** (1) A person who is registered to vote in this state may transfer his or her voter registration on the day of a special or general election or primary under the following procedures:

(a) The voter may complete, at the polling place, a registration transfer form designed by the secretary of state and supplied by the county auditor; or

(b) The voter may write in his or her new residential address in the precinct list of registered voters.

The county auditor shall determine which of these two procedures are to be used in the county or may determine that both procedures are to be available to voters for use in the county.

(2) A voter who transfers his or her registration in the manner authorized by this section shall vote in the precinct in which he or she was previously registered.

(3) The auditor shall, within ninety days, mail to each voter who has transferred a registration under this section a notice of his or her current precinct and polling place. [1991 c 81 § 28; 1979 c 96 § 1.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.10.180 Voter change-of-address—Inquiries of registration validity—Corrections and cancellations.**

(1) The county auditor may enter one or more contracts with the United States postal service, or its licensee, which permit the auditor to use postal service change-of-address information. If the auditor finds that information received under such a contract gives the appearance that a voter has changed his or her residence address, the auditor shall notify the voter concerning the requirements of state and federal laws governing voter registration and residence.

(2) Whenever any vote-by-mail ballot, notification to voters following precincting of the county, notification to voters of selection to serve on jury duty, notification under subsection (1) of this section, or initial voter identification card is returned by the postal service as undeliverable, the county auditor shall, in every instance, inquire into the validity of the registration of that voter.

(3) The county auditor shall initiate his or her inquiry by sending, by first-class mail, a written notice to the challenged voter at the address indicated on the voter's permanent registration record and to any other address at which the county auditor could reasonably expect mail to be received by the voter. The county auditor shall not request any restriction on the forwarding of such notice by the postal service. The notice shall contain the nature of the inquiry and provide a suitable form for reply. The notice shall also contain a warning that the county auditor must receive a response within

forty-five days from the date of mailing or the individual's voter registration will be canceled.

(4) The voter, in person or in writing, may state that the information on the permanent voter registration record is correct or may request a change in the address information on the permanent registration record no later than the forty-fifth day after the date of mailing the inquiry.

(5) Upon the timely receipt of a response signed by the voter, the county auditor shall consider the inquiry satisfied and will make any address corrections requested by the voter on the permanent registration record. The county auditor shall cancel the registration of a voter who fails to respond to the notice of inquiry within forty-five days after the date of mailing.

(6) The county auditor shall notify any voter whose registration has been canceled by sending, by first class mail, a written notice to the address indicated on the voter's permanent registration record and to any other address to which the original inquiry was sent. Upon receipt of a satisfactory voter response, the auditor shall reinstate the voter.

(7) A voter whose registration has been canceled under this section and who offers to vote at the next ensuing election shall be issued a questioned ballot. Upon receipt of such a questioned ballot the auditor shall investigate the circumstances surrounding the original cancellation. If he or she determines that the cancellation was in error, the voter's registration shall be immediately reinstated, and the voter's questioned ballot shall be counted. If the original cancellation was not in error, the voter shall be afforded the opportunity to reregister at his or her correct address, and the voter's questioned ballot shall not be counted. [1991 c 363 § 31; 1989 c 261 § 1; 1987 c 359 § 1.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

## Chapter 29.13

### TIMES FOR HOLDING ELECTIONS AND PRIMARIES

#### Sections

29.13.020	City, town, and district general and special elections—Exceptions.
29.13.025	Repealed.
29.13.060	Elections in certain first class school districts.
29.13.075	Recodified as RCW 29.15.150. (Effective July 1, 1992.)

**29.13.020 City, town, and district general and special elections—Exceptions.** (1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at

the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW 28A.315.280 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to him at least forty-five days prior to the proposed election date, may, if he deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he may combine, unite, or divide precincts. A special election called by such governing body shall be held on one of the following dates as decided by the governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March;

(c) The first Tuesday after the first Monday in April;

(d) The fourth Tuesday in May;

(e) The day of the primary election as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

In addition to (a) through (f) above, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a school or junior taxing district to pass a special levy or bond issue for the first time or from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in (e) and (f) of this subsection. Such special election shall be conducted and notice thereof given in the manner provided by law.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections. [1990 c 33 § 562; 1989 c 4 § 10 (Initiative Measure No. 99, approved November 8, 1988); 1986 c 167 § 6; 1980 c 3 § 2; 1975-'76 2nd ex.s. c 111 § 2; 1965 c 123 § 3; 1965 c 9 § 29.13.020. Prior: 1963 c 200 § 1; 1955 c 55 § 1; 1951 c 101 § 1; 1949 c 161 § 1; 1927 c 182 § 1; 1923 c 53 § 2; 1921 c 61 § 2; Rem. Supp. 1949 § 5144.]

**Purpose**—**Statutory references**—**Severability**—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

**Severability**—1989 c 4: See RCW 29.19.900.

**Severability**—1986 c 167: See note following RCW 29.01.055.

**Severability**—1975-'76 2nd ex.s. c 111: See notes following RCW 29.13.010.

**29.13.025 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.13.060 Elections in certain first class school districts.** In each county with a population of two hundred

ten thousand or more, first class school districts containing a city of the first class shall hold their elections biennially as provided in RCW 29.13.020.

Except as provided in RCW 28A.315.460, the directors to be elected shall be elected for terms of six years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. [1991 c 363 § 32; 1990 c 33 § 563; 1989 c 10 § 7. Prior: 1979 ex.s. c 183 § 11; 1979 ex.s. c 126 § 15; 1965 c 9 § 29.13.060; prior: 1963 c 200 § 9; 1943 c 10 § 1; Rem. Supp. 1943 § 4810-1.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**Purpose**—**Statutory references**—**Severability**—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

**Purpose**—1979 ex.s. c 126: See RCW 29.04.170(1).

**Effective date**—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.315.580.

**Directors**—**Number and terms of in new first class district having city with population of 400,000 people or more:** RCW 28A.315.630.

**29.13.075 Recodified as RCW 29.15.150. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 29.15

### FILING FOR OFFICE

Sections	
29.15.010	Declaration and affidavit of candidacy. (Effective July 1, 1992.)
29.15.020	Declaration of candidacy—Certain offices, when filed. (Effective July 1, 1992.)
29.15.025	Qualifications for filing, appearance on ballot. (Effective July 1, 1992.)
29.15.026	Information on geographical boundaries. (Effective July 1, 1992.)
29.15.030	Declaration of candidacy—Where filed—Copy to public disclosure commission. (Effective July 1, 1992.)
29.15.040	Declaration of candidacy—Filing by mail. (Effective July 1, 1992.)
29.15.050	Declaration of candidacy—Fees and petitions. (Effective July 1, 1992.)
29.15.060	Nominating petition—Form. (Effective July 1, 1992.)
29.15.070	Nominating petitions—Rejection—Acceptance, canvass of signatures—Judicial review. (Effective July 1, 1992.)
29.15.080	Nominating petitions—Penalties for improperly signing. (Effective July 1, 1992.)
29.15.090	Candidates' names—Nicknames. (Effective July 1, 1992.)
29.15.100	Duplication of, use of nonexistent or untrue names, as felony. (Effective July 1, 1992.)
29.15.110	Duplication of names—Conspiracy—Criminal and civil liability. (Effective July 1, 1992.)
29.15.120	Withdrawal of candidacy. (Effective July 1, 1992.)
29.15.130	Officials to designate position numbers, when—Effect. (Effective July 1, 1992.)
29.15.140	Designation of short terms, full terms, and unexpired terms—Filing declarations—Election to both short and full terms. (Effective July 1, 1992.)
29.15.150	Elections to fill unexpired term—No primary, when. (Effective July 1, 1992.)
29.15.160	Void in candidacy—Exception. (Effective July 1, 1992.)
29.15.170	Reopening of filing—Occurrences before fourth Tuesday before primary. (Effective July 1, 1992.)
29.15.180	Reopening of filing—Occurrences after fourth Tuesday before primary. (Effective July 1, 1992.)

29.15.190	Scheduled election lapses, when. (Effective July 1, 1992.)
29.15.200	Lapse of election when no filing for single positions—Effect. (Effective July 1, 1992.)
29.15.210	Notice of void in candidacy. (Effective July 1, 1992.)
29.15.220	Filings to fill void in candidacy—How made. (Effective July 1, 1992.)
29.15.230	Vacancy in partisan elective office—Special filing period. (Effective July 1, 1992.)
29.15.800	Rules by secretary of state.
29.15.900	Intent—1990 c 59.
29.15.901	Effective date—1990 c 59.

**29.15.010 Declaration and affidavit of candidacy.** (Effective July 1, 1992.) A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice-president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration and affidavit of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) A place for the candidate to indicate a party designation, if applicable;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a nominating petition in lieu of the filing fee under RCW 29.15.050;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process. [1990 c 59 § 82.]

**29.15.020 Declaration of candidacy—Certain offices, when filed.** (Effective July 1, 1992.) Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer no earlier than the fourth Monday in July and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which

an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices. [1990 c 59 § 81; 1986 c 167 § 8; 1984 c 142 § 2. Formerly RCW 29.18.025.]

**Severability—1986 c 167:** See note following RCW 29.01.055.

**Intent—1984 c 142:** "It is the intention of the legislature that this act shall provide an equitable qualifying procedure for candidates who, at the time of filing, lack sufficient assets or income to pay the filing fees otherwise required of candidates for public office." [1984 c 142 § 1.] For codification of 1984 c 142, see Codification Tables, Volume 0.

**29.15.025 Qualifications for filing, appearance on ballot.** (Effective July 1, 1992.) (1) A person filing a declaration and affidavit of candidacy for an office shall, at the time of filing, possess the qualifications specified by law for persons who may be elected to the office.

(2) The name of a candidate for an office shall not appear on a ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations and affidavits of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(3) This section does not apply to the office of a member of the United States congress. [1991 c 178 § 1. Formerly RCW 29.18.021.]

**29.15.026 Information on geographical boundaries.** (Effective July 1, 1992.) (1) The legislative authority of each county and each city, town, and special purpose district which lies entirely within the county shall provide the county auditor accurate information, describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the auditor is kept current.

(2) A city, town, or special purpose district that lies in more than one county shall provide the secretary of state accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the secretary is kept current. The secretary of state shall promptly transmit to each county in which a city, town, or special purpose district is located information regarding the boundaries of that jurisdiction which is provided to the secretary. [1991 c 178 § 2. Formerly RCW 29.04.220.]

**29.15.030 Declaration of candidacy—Where filed—Copy to public disclosure commission.** (Effective July 1, 1992.) Declarations of candidacy shall be filed with the following filing officers:

(1) The secretary of state for declarations of candidacy for state-wide offices, United States senate, and United States house of representatives;

(2) The secretary of state for declarations of candidacy for the state legislature, the court of appeals, and the superior court when voters from a district comprising more than one county vote upon the candidates;

(3) The county auditor for all other offices. For any nonpartisan office, other than judicial offices, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside.

Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall forward to the public disclosure commission a copy of each declaration of candidacy filed in his office during such filing period or a list containing the name of each candidate who files such a declaration in his office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission. [1990 c 59 § 84; 1977 ex.s. c 361 § 30; 1975-'76 2nd ex.s. c 112 § 1; 1965 c 9 § 29.18.040. Prior: 1907 c 209 § 7; RRS § 5184. Formerly RCW 29.18.040.]

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**Construction—1975-'76 2nd ex.s. c 112:** RCW 42.17.945.

**Severability—1975-'76 2nd ex.s. c 112:** RCW 42.17.912.

*Precinct committee officer, filing of declaration of candidacy with county auditor:* RCW 29.42.040.

*Public disclosure—Campaign finances, lobbying, records:* Chapter 42.17 RCW.

**29.15.040 Declaration of candidacy—Filing by mail.** (Effective July 1, 1992.) Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day

of the filing period shall be included with filings made in person during the filing period. In partisan and judicial elections the filing officer shall determine by lot the order in which the names of those candidates shall appear upon sample and absentee primary ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it. [1987 c 110 § 2; 1986 c 120 § 2. Formerly RCW 29.18.045.]

*Precinct committee officer, declaration of candidacy, fee:* RCW 29.42.040, 29.42.050.

**29.15.050 Declaration of candidacy—Fees and petitions.** (Effective July 1, 1992.) A filing fee of one dollar shall accompany each declaration of candidacy for precinct committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with a fixed annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for any office for which compensation is on a per diem or per meeting attended basis, nor for the filing of any declaration of candidacy by a write-in candidate.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(2) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury. [1990 c 59 § 85; 1987 c 295 § 2; 1984 c 142 § 4; 1965 c 9 § 29.18.050. Prior: 1909 c 82 § 2; 1907 c 209 § 5; RRS § 5182. Formerly RCW 29.18.050.]

**Intent—1984 c 142:** See note following RCW 29.15.020.

*Precinct committee officer, declaration of candidacy, fee:* RCW 29.42.040, 29.42.050.

**29.15.060 Nominating petition—Form.** (Effective July 1, 1992.) The nominating petition authorized by RCW 29.15.050 shall be printed on sheets of uniform color and size, shall contain no more than twenty numbered lines, and shall be in substantially the following form:

**WARNING**

Any person who signs this petition with any other than his or her true name, or who knowingly (1) signs more than one petition for any single candidate, (2) signs the petition when he or she is not a legal voter, or (3) makes any false statement may be subject to fine, or imprisonment, or both.

We, the undersigned registered voters of            (the state of Washington or the political subdivision for which the nomination is made)           , hereby petition that the name of            (candidate's name) be printed on the official primary ballot for the office of            (insert name of office)           .

Signature	Printed Name	Residence Address	City	County
1 .....				
2 .....				
3 .....				
etc.				

[1984 c 142 § 5. Formerly RCW 29.18.053.]

**Intent**—1984 c 142: See note following RCW 29.15.020.

**29.15.070 Nominating petitions—Rejection—Acceptance, canvass of signatures—Judicial review.** (Effective July 1, 1992.) Nominating petitions may be rejected for the following reasons:

- (1) The petition is not in the proper form;
- (2) The petition clearly bears insufficient signatures;
- (3) The petition is not accompanied by a declaration of candidacy;
- (4) The time within which the petition and the declaration of candidacy could have been filed has expired.

If the petition is accepted, the officer with whom it is filed shall canvass the signatures contained on it and shall reject the signatures of those persons who are not registered voters and the signatures of those persons who are not registered to vote within the jurisdiction of the office for which the nominating petition is filed. He or she shall additionally reject any signature that appears on the nominating petitions of two or more candidates for the same office and shall also reject, each time it appears, the name of any person who signs the same petition more than once.

If the officer with whom the petition is filed refuses to accept the petition or refuses to certify the petition as bearing sufficient valid signatures, the person filing the petition may appeal that action to the superior court. The application for judicial review shall take precedence over other cases and matters and shall be speedily heard and determined. [1984 c 142 § 6. Formerly RCW 29.18.055.]

**Intent**—1984 c 142: See note following RCW 29.15.020.

**29.15.080 Nominating petitions—Penalties for improperly signing.** (Effective July 1, 1992.) The following apply to persons signing nominating petitions prescribed by RCW 29.15.060:

(1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence. [1984 c 142 § 8. Formerly RCW 29.18.057.]

**Intent**—1984 c 142: See note following RCW 29.15.020.

**29.15.090 Candidates' names—Nicknames.** (Effective July 1, 1992.) When filing for office, a candidate may indicate the manner in which he or she desires his or her name to be printed on the ballot. For filing purposes, a candidate may use a nickname by which he or she is commonly known as his or her first name, but the last name shall be the name under which he or she is registered to vote.

No candidate may:

- (1) Use a nickname that denotes present or past occupation, including military rank;
- (2) Use a nickname that denotes the candidate's position on issues or political affiliation;
- (3) Use a nickname designed intentionally to mislead voters.

The secretary of state shall adopt rules to resolve those instances when candidates have filed for the same office whose last names are so similar in sound or spelling as to be confusing to the voter. [1990 c 59 § 83.]

**29.15.100 Duplication of, use of nonexistent or untrue names, as felony.** (Effective July 1, 1992.) A person is guilty of a felony who files a declaration of candidacy for any public office of:

- (1) A nonexistent or fictitious person; or
- (2) The name of any person not his true name; or
- (3) A name similar to that of an incumbent seeking reelection to the same office with intent to confuse and mislead the electors by taking advantage of the public reputation of the incumbent; or

(4) A surname similar to one who has already filed for the same office, and whose political reputation is widely known, with intent to confuse and mislead the electors by capitalizing on the public reputation of the candidate who had previously filed. [1965 c 9 § 29.18-.070. Prior: (i) 1943 c 198 § 2; Rem. Supp. 1943 § 5213-11. (ii) 1943 c 198 § 3; Rem. Supp. 1943 § 5213-12. Formerly RCW 29.18.070.]

**29.15.110 Duplication of names—Conspiracy—Criminal and civil liability.** (Effective July 1, 1992.) Any person who with intent to mislead or confuse the electors conspires with another person who has a surname similar to an incumbent seeking reelection to the same office, or to an opponent for the same office whose political reputation has been well established, by persuading such other person to file for such office with no intention of being elected, but to defeat the incumbent or the well known opponent, shall be guilty of a felony. In addition thereto such person or persons shall be subject to a suit for civil damages the amount of which shall not exceed

the salary which the injured person would have received had he been elected or reelected. [1965 c 9 § 29.18.080. Prior: 1943 c 198 § 6; Rem. Supp. 1943 § 5213-15. Formerly RCW 29.18.080.]

**29.15.120 Withdrawal of candidacy.** (Effective July 1, 1992.) A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the Thursday following the last day for candidates to file under RCW 29.15.020 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the general election ballots for that precinct have not been printed. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files. [1990 c 59 § 86; 1984 c 142 § 7. Formerly RCW 29.18.105.]

**Intent**—1984 c 142: See note following RCW 29.15.020.

**29.15.130 Officials to designate position numbers, when—Effect.** (Effective July 1, 1992.) Not less than thirty days before the first day for filing declarations of candidacy under RCW 29.15.020 for legislative, judicial, county, city, town, or district office, where more than one position with the same name, district number, or title will be voted upon at the succeeding election, the filing officer shall designate the positions to be filled by number.

The positions so designated shall be dealt with as separate offices for all election purposes. With the exception of the office of justice of the supreme court, the position numbers shall be assigned, whenever possible, to reflect the position numbers that were used to designate the same positions at the last full-term election for those offices. [1990 c 59 § 79; 1965 c 52 § 1. Formerly RCW 29.18.015.]

**29.15.140 Designation of short terms, full terms, and unexpired terms—Filing declarations—Election to both short and full terms.** (Effective July 1, 1992.) If at the same election there are short terms or full terms and unexpired terms of office to be filled, the filing officer shall distinguish them and designate the short term, the full term, and the unexpired term, as such, or by use of the words "short term," "unexpired two year term," or "four year term," as the case may be.

In filing the declaration of candidacy in such cases the candidate shall specify that the candidacy is for the short term, the full term, or the unexpired term. When both a short term and a full term for the same position are scheduled to be voted upon, or when a short term is created after the close of the filing period, a single declaration of candidacy accompanied by a single filing fee

shall be construed as a filing for both the short term and the full term and the name of such candidate shall appear upon the ballot for the position sought with the designation "short term and full term." The candidate elected to both such terms shall be sworn into and assume office for the short term as soon as the election returns have been certified and shall again be sworn into office on the second Monday in January following the election to assume office for the full term. [1990 c 59 § 92; 1975-'76 2nd ex.s. c 120 § 4; 1965 c 9 § 29.21.140. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. Formerly RCW 29.21.140.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

*Term of person elected to fill vacancy:* RCW 42.12.030.

*Vacancies in public office, how filled:* RCW 42.12.010.

**29.15.150 Elections to fill unexpired term—No primary, when.** (Effective July 1, 1992.) Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no September primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, either of the following circumstances exist:

(1) No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or

(2) No more than two candidates have filed a declaration of candidacy for a single nonpartisan office to be filled.

In either event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the September primary ballot, but for the provisions of this section, shall be printed as nominees for the positions sought upon the November general election ballot. [1973 c 4 § 3. Formerly RCW 29.13.075.]

**29.15.160 Void in candidacy—Exception.** (Effective July 1, 1992.) A void in candidacy for a nonpartisan office occurs when an election for such office, except for the short term, has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified. [1975-'76 2nd ex.s. c 120 § 9; 1972 ex.s. c 61 § 1. Formerly RCW 29.21.350.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

**Severability**—1972 ex.s. c 61: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 61 § 8.]

**29.15.170 Reopening of filing—Occurrences before fourth Tuesday before primary.** (Effective July 1, 1992.) Filings for a nonpartisan office shall be reopened for a

period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the fourth Tuesday prior to a primary:

- (1) A void in candidacy occurs;
- (2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or
- (3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period. [1975-'76 2nd ex.s. c 120 § 10; 1972 ex.s. c 61 § 2. Formerly RCW 29.21.360.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

**Severability**—1972 ex.s. c 61: See note following RCW 29.15.160.

**29.15.180 Reopening of filing—Occurrences after fourth Tuesday before primary. (Effective July 1, 1992.)** Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

- (1) A void in candidacy for such nonpartisan office occurs on or after the fourth Tuesday prior to a primary but prior to the fourth Tuesday before an election; or
- (2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period when a petition for write-in candidacy may be received; or
- (3) A vacancy occurs in any nonpartisan office on or after the fourth Tuesday prior to a primary but prior to the fourth Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected. [1975-'76 2nd ex.s. c 120 § 11; 1972 ex.s. c 61 § 3. Formerly RCW 29.21.370.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.15.160.

**Severability**—1972 ex.s. c 61: See note following RCW 29.15.160.

**29.15.190 Scheduled election lapses, when. (Effective July 1, 1992.)** A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when:

(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the fourth Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in RCW 29.15.180, as now or hereafter amended, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the fourth Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs or a vacancy occurs involving an unexpired term to be filled on or after the fourth Tuesday prior to an election. [1975-'76 2nd ex.s. c 120 § 12; 1972 ex.s. c 61 § 4. Formerly RCW 29.21.380.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

**Severability**—1972 ex.s. c 61: See note following RCW 29.15.160.

**29.15.200 Lapse of election when no filing for single positions—Effect. (Effective July 1, 1992.)** If after both the normal filing period and special three day filing period as provided by RCW 29.15.170 and 29.15.180, as now or hereafter amended, have passed and still no candidate has filed for any single city, town, or district position to be filled, the election for such position shall be deemed lapsed, the office deemed stricken from the ballot and no write-in votes counted. In such instance, the incumbent occupying such position shall remain in office and continue to serve until his successor is elected at the next election when such positions are voted upon as provided by RCW 29.21.410, as now or hereafter amended. [1975-'76 2nd ex.s. c 120 § 13. Formerly RCW 29.21.385.]

**Severability**—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

**29.15.210 Notice of void in candidacy. (Effective July 1, 1992.)** The election officer with whom declarations of candidacy are filed shall give notice of a void in candidacy for a nonpartisan office, by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law. The notice shall state the office, and the time and place for filing declarations of candidacy. [1972 ex.s. c 61 § 5. Formerly RCW 29.21.390.]

**Severability**—1972 ex.s. c 61: See note following RCW 29.15.160.

**29.15.220 Filings to fill void in candidacy—How made. (Effective July 1, 1992.)** Filings to fill a void in candidacy for nonpartisan office shall be made in the same manner and with the same official as required during the regular filing period for such office: PROVIDED, That nominating signature petitions which may be required of candidates filing for certain district offices during the normal filing period shall not be required of candidates filing during the special three day filing period. [1972 ex.s. c 61 § 6. Formerly RCW 29.21.400.]

**Severability**—1972 ex.s. c 61: See note following RCW 29.15.160.

**29.15.230 Vacancy in partisan elective office—**  
**Special filing period.** (Effective July 1, 1992.) Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the fourth Tuesday prior to a primary, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any such special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by such other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the primary ballot as if filed during the regular filing period. [1981 c 180 § 2. Formerly RCW 29.18.032.]

**Severability—1981 c 180:** See note following RCW 42.12.040.  
*Vacancy in partisan elective office, successor elected, when:* RCW 42.12.040.  
*Vacancy in United States senate, special filing period in 1983: Chapter 1, Laws of 1983 3rd ex. sess. (uncodified).*

**29.15.800 Rules by secretary of state.** The secretary of state shall adopt rules consistent with the provisions of this chapter to facilitate its implementation. The secretary shall publish proposed rules implementing this section not later than December 15, 1991. [1990 c 59 § 97.]

**29.15.900 Intent—1990 c 59.** See note following RCW 29.01.006.

**29.15.901 Effective date—1990 c 59.** See note following RCW 29.01.006.

**Chapter 29.18**  
**PARTISAN PRIMARIES**

Sections

- 29.18.010 Application of chapter. (Effective July 1, 1992.)
- 29.18.015 Recodified as RCW 29.15.130. (Effective July 1, 1992.)
- 29.18.020 Repealed. (Effective July 1, 1992.)
- 29.18.021 Qualifications for filing, appearance on ballot. (Effective until July 1, 1992.)
- 29.18.021 Recodified as RCW 29.15.025. (Effective July 1, 1992.)
- 29.18.022 Repealed. (Effective July 1, 1992.)
- 29.18.025 Recodified as RCW 29.15.020. (Effective July 1, 1992.)
- 29.18.030 Repealed. (Effective July 1, 1992.)
- 29.18.031 Repealed. (Effective July 1, 1992.)
- 29.18.032 Recodified as RCW 29.15.230. (Effective July 1, 1992.)
- 29.18.035 Repealed. (Effective July 1, 1992.)
- 29.18.040 Recodified as RCW 29.15.030. (Effective July 1, 1992.)
- 29.18.045 Recodified as RCW 29.15.040. (Effective July 1, 1992.)
- 29.18.050 Recodified as RCW 29.15.050. (Effective July 1, 1992.)
- 29.18.053 Recodified as RCW 29.15.060. (Effective July 1, 1992.)
- 29.18.055 Recodified as RCW 29.15.070. (Effective July 1, 1992.)
- 29.18.057 Recodified as RCW 29.15.080. (Effective July 1, 1992.)
- 29.18.060 Repealed. (Effective July 1, 1992.)
- 29.18.070 Recodified as RCW 29.15.100. (Effective July 1, 1992.)
- 29.18.080 Recodified as RCW 29.15.110. (Effective July 1, 1992.)
- 29.18.090 Repealed. (Effective July 1, 1992.)

- 29.18.100 Repealed. (Effective July 1, 1992.)
- 29.18.105 Recodified as RCW 29.15.120. (Effective July 1, 1992.)
- 29.18.110 Repealed. (Effective July 1, 1992.)
- 29.18.120 General election laws govern primary. (Effective July 1, 1992.)
- 29.18.150 Vacancies on major party ticket caused by no filing—  
 How filled. (Effective July 1, 1992.)
- 29.18.200 Blanket primary authorized. (Effective July 1, 1992.)

**29.18.010 Application of chapter.** (Effective July 1, 1992.) Candidates for the following offices shall be nominated at partisan primaries held pursuant to the provisions of this chapter:

- (1) Congressional offices;
- (2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;
- (3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise. [1990 c 59 § 78; 1965 c 9 § 29.18.010. Prior: 1911 c 101 § 2; 1909 c 82 § 1; 1907 c 209 § 2; RRS § 5178.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.18.015 Recodified as RCW 29.15.130.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.020 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.021 Qualifications for filing, appearance on ballot.** (Effective until July 1, 1992.) (1) A person filing a declaration and affidavit of candidacy for an office shall, at the time of filing, possess the qualifications specified by law for persons who may be elected to the office.

(2) The name of a candidate for an office shall not appear on a ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations and affidavits of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(3) This section does not apply to the office of a member of the United States congress. [1991 c 178 § 1.]

**29.18.021 Recodified as RCW 29.15.025.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.022 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.025 Recodified as RCW 29.15.020.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.030 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.031 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.032 Recodified as RCW 29.15.230.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.035 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.040 Recodified as RCW 29.15.030.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.045 Recodified as RCW 29.15.040.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.050 Recodified as RCW 29.15.050.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.053 Recodified as RCW 29.15.060.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.055 Recodified as RCW 29.15.070.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.057 Recodified as RCW 29.15.080.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.060 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.070 Recodified as RCW 29.15.100.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.080 Recodified as RCW 29.15.110.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.090 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.100 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.105 Recodified as RCW 29.15.120.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.110 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.18.120 General election laws govern primary.** (Effective July 1, 1992.) So far as applicable, the provisions of this title relating to conducting general elections shall govern the conduct of primaries. [1990 c 59 § 87; 1971 ex.s. c 112 § 1; 1965 c 9 § 29.18.120. Prior: (i) 1907 c 209 § 14; RRS § 5191. (ii) 1921 c 178 § 5; 1907 c 209 § 21; RRS § 5197. (iii) 1909 c 82 § 10; 1907 c 209 § 33; RRS § 5208.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.18.150 Vacancies on major party ticket caused by no filing—How filled.** (Effective July 1, 1992.) Should a place on the ticket of a major political party be vacant because no person has filed for nomination as the candidate of that major political party, after the last day allowed for candidates to withdraw as provided by RCW 29.15.120, and if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the major political party may select and certify a candidate to fill the vacancy; if the vacancy is for any other office the state central committee of the major political party may select and certify a candidate to fill the vacancy; the certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which he is nominated and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy. [1990 c 59 § 102; 1977 ex.s. c 329 § 12; 1965 c 9 § 29.18.150. Prior: 1961 c 130 § 17; prior: (i) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part. (ii) 1889 p 404 § 12; RRS § 5176.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.18.200 Blanket primary authorized.** (Effective July 1, 1992.) Except as provided otherwise in chapter 29.19 RCW, all properly registered voters may vote for their choice at any primary held under this title, for any

candidate for each office, regardless of political affiliation and without a declaration of political faith or adherence on the part of the voter. [1990 c 59 § 88; 1965 c 9 § 29.18.200. Prior: 1935 c 26 § 5, part; No RRS.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Chapter 29.21**

**NONPARTISAN PRIMARIES AND ELECTIONS**

Sections

- 29.21.010 Primaries in cities, towns, and certain districts. (Effective July 1, 1992.)
- 29.21.015 When no city, town, or district primary required—Procedure. (Effective July 1, 1992.)
- 29.21.017 Repealed. (Effective July 1, 1992.)
- 29.21.020 Repealed. (Effective July 1, 1992.)
- 29.21.040 Repealed. (Effective July 1, 1992.)
- 29.21.060 Repealed. (Effective July 1, 1992.)
- 29.21.070 Nonpartisan offices specified. (Effective July 1, 1992.)
- 29.21.075 Repealed. (Effective July 1, 1992.)
- 29.21.080 Repealed. (Effective July 1, 1992.)
- 29.21.085 Repealed. (Effective July 1, 1992.)
- 29.21.090 Repealed. (Effective July 1, 1992.)
- 29.21.110 Repealed. (Effective July 1, 1992.)
- 29.21.120 Repealed. (Effective July 1, 1992.)
- 29.21.130 Repealed. (Effective July 1, 1992.)
- 29.21.140 Recodified as RCW 29.15.140. (Effective July 1, 1992.)
- 29.21.150 Repealed. (Effective July 1, 1992.)
- 29.21.160 Repealed. (Effective July 1, 1992.)
- 29.21.180 Repealed. (Effective July 1, 1992.)
- 29.21.190 Repealed. (Effective July 1, 1992.)
- 29.21.200 Repealed. (Effective July 1, 1992.)
- 29.21.210 Repealed. (Effective July 1, 1992.)
- 29.21.220 Repealed. (Effective July 1, 1992.)
- 29.21.330 Repealed. (Effective July 1, 1992.)
- 29.21.350 Recodified as RCW 29.15.160. (Effective July 1, 1992.)
- 29.21.360 Recodified as RCW 29.15.170. (Effective July 1, 1992.)
- 29.21.370 Recodified as RCW 29.15.180. (Effective July 1, 1992.)
- 29.21.380 Recodified as RCW 29.15.190. (Effective July 1, 1992.)
- 29.21.385 Recodified as RCW 29.15.200. (Effective July 1, 1992.)
- 29.21.390 Recodified as RCW 29.15.210. (Effective July 1, 1992.)
- 29.21.400 Recodified as RCW 29.15.220. (Effective July 1, 1992.)

**29.21.010 Primaries in cities, towns, and certain districts. (Effective July 1, 1992.)** All city and town primaries shall be nonpartisan. Primaries for special purpose districts, except those districts that require ownership of property within the district as a prerequisite to voting, shall be nonpartisan. City, town, and district primaries shall be held as provided in RCW 29.13.070.

The purpose of this section is to establish the holding of a primary, subject to the exemptions in RCW 29.21.015, as a uniform procedural requirement to the holding of city, town, and district elections. These provisions supersede any and all other statutes, whether general or special in nature, having different election requirements. [1990 c 59 § 89; 1977 c 53 § 3; 1975-'76 2nd ex.s. c 120 § 1; 1965 c 123 § 7; 1965 c 9 § 29.21.010. Prior: 1951 c 257 § 7; 1949 c 161 § 3; Rem. Supp. 1949 § 5179-1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1975-'76 2nd ex.s. c 120:** "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 120 § 16.]

**29.21.015 When no city, town, or district primary required—Procedure. (Effective July 1, 1992.)** No primary may be held for any single position in any city, town, or district, as required by RCW 29.21.010, if, after the last day allowed for candidates to withdraw, there are no more than two candidates filed for the position. The county auditor shall, as soon as possible, notify all the candidates so affected that the office for which they filed will not appear on the primary ballot. Names of candidates so notified shall be printed upon the general election ballot in the manner specified by RCW 29.30.025. [1990 c 59 § 90; 1975-'76 2nd ex.s. c 120 § 2; 1965 c 9 § 29.21.015. Prior: 1955 c 101 § 2; 1955 c 4 § 1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1975-'76 2nd ex.s. c 120:** See note following RCW 29.21.010.

**29.21.017 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.020 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.040 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.060 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.070 Nonpartisan offices specified. (Effective July 1, 1992.)** The offices of superintendent of public instruction, justice of the supreme court, judge of the court of appeals, judge of the superior court, and judge of the district court shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

All city, town, and special purpose district elective offices shall be nonpartisan and the candidates therefor shall be nominated and elected as such. [1990 c 59 § 91; 1987 c 202 § 193; 1971 c 81 § 75; 1965 c 9 § 29.21.070. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Intent—1987 c 202:** See note following RCW 2.04.190.  
*Eligibility of judges: State Constitution Art. 4 § 17.*

**29.21.075 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.080 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.085 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.090 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.110 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.120 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.130 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.140 Recodified as RCW 29.15.140.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.150 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.160 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.180 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.190 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.200 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.210 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.220 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.330 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.350 Recodified as RCW 29.15.160.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.360 Recodified as RCW 29.15.170.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.370 Recodified as RCW 29.15.180.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.380 Recodified as RCW 29.15.190.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.385 Recodified as RCW 29.15.200.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.390 Recodified as RCW 29.15.210.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.21.400 Recodified as RCW 29.15.220.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

#### Chapter 29.24

#### NOMINATIONS OTHER THAN BY PRIMARY

##### Sections

29.24.070 Declarations of candidacy required, exceptions—  
Payment of fees. (Effective July 1, 1992.)

**29.24.070 Declarations of candidacy required, exceptions—Payment of fees.** (Effective July 1, 1992.) Not later than the Friday immediately preceding the first day for candidates to file, the secretary of state shall notify the county auditors of the names and designations of all minor party and independent candidates who have filed valid convention certificates and nominating petitions with that office. Except for the offices of president and vice-president, persons nominated under this chapter shall file declarations of candidacy as provided by RCW 29.15.010 and 29.15.030. The name of a candidate nominated at a convention shall not be printed upon the primary ballot unless he pays the fee required by law to be paid by candidates for the same office to be nominated at a primary. [1990 c 59 § 103; 1989 c 215 § 8; 1977 ex.s. c 329 § 7; 1965 c 9 § 29.24.070. Prior: 1955 c 102 § 7; prior: (i) 1937 c 94 § 7, part; RRS § 5170-3, part. (ii) 1907 c 209 § 26, part; RRS § 5203, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

#### Chapter 29.27

#### CERTIFICATES AND NOTICES

##### Sections

29.27.010 Repealed. (Effective July 1, 1992.)  
29.27.020 Certifying primary candidates. (Effective July 1, 1992.)  
29.27.040 Repealed. (Effective July 1, 1992.)  
29.27.045 Repealed. (Effective July 1, 1992.)

29.27.050 Certification of nominees. (Effective July 1, 1992.)

**29.27.010 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.27.020 Certifying primary candidates. (Effective July 1, 1992.)** On or before the day following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party designation, if any. [1990 c 59 § 8; 1965 ex.s. c 103 § 4; 1965 c 9 § 29.27.020. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Special procedures for primary for United States senate vacancy in 1983: Chapter 1, Laws of 1983 3rd ex. sess. (uncodified).*

**29.27.040 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.27.045 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.27.050 Certification of nominees. (Effective July 1, 1992.)** No later than the day following the certification of the returns of any primary, the secretary of state shall certify to the appropriate county auditors, the names of all persons nominated for offices, the returns of which have been canvassed by the secretary of state. [1990 c 59 § 9; 1965 ex.s. c 103 § 7; 1965 c 9 § 29.27.050. Prior: 1961 c 130 § 19; 1889 p 403 § 9; RRS § 5173.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

## Chapter 29.30 BALLOTS

### Sections

29.30.005	Names on primary ballot. (Effective July 1, 1992.)
29.30.010	Uniformity, arrangement, contents required. (Effective July 1, 1992.)
29.30.020	Order of offices and issues—Party indication. (Effective July 1, 1992.)
29.30.025	Order of candidates on ballots. (Effective July 1, 1992.)
29.30.030	Repealed. (Effective July 1, 1992.)
29.30.040	Primaries—Rotating names of candidates. (Effective July 1, 1992.)
29.30.060	Sample ballots. (Effective July 1, 1992.)
29.30.061	Repealed. (Effective July 1, 1992.)
29.30.081	Arrangement of instructions, measures, offices—Order of candidates—Numbering of ballots. (Effective July 1, 1992.)
29.30.085	Nonpartisan candidates qualified for general election. (Effective July 1, 1992.)

29.30.091	Repealed. (Effective July 1, 1992.)
29.30.095	Partisan candidates qualified for general election. (Effective July 1, 1992.)
29.30.101	Names qualified to appear on election ballot. (Effective July 1, 1992.)
29.30.105	Repealed. (Effective July 1, 1992.)
29.30.130	Expense of printing and distributing ballot materials. (Effective July 1, 1992.)
29.30.310	Repealed. (Effective July 1, 1992.)
29.30.320	Repealed. (Effective July 1, 1992.)
29.30.330	Repealed. (Effective July 1, 1992.)
29.30.340	Repealed. (Effective July 1, 1992.)
29.30.350	Repealed. (Effective July 1, 1992.)
29.30.370	Repealed. (Effective July 1, 1992.)
29.30.380	Repealed. (Effective July 1, 1992.)
29.30.390	Repealed. (Effective July 1, 1992.)
29.30.410	Repealed. (Effective July 1, 1992.)
29.30.420	Repealed. (Effective July 1, 1992.)
29.30.430	Repealed. (Effective July 1, 1992.)
29.30.440	Repealed. (Effective July 1, 1992.)
29.30.450	Repealed. (Effective July 1, 1992.)
29.30.460	Repealed. (Effective July 1, 1992.)
29.30.480	Repealed. (Effective July 1, 1992.)
29.30.490	Repealed. (Effective July 1, 1992.)

**29.30.005 Names on primary ballot. (Effective July 1, 1992.)** Except for the candidates for the positions of president and vice-president or for a partisan or nonpartisan office for which no primary is required, the names of all candidates who have filed for nomination under chapter 29.18 RCW and those independent candidates and candidates of minor political parties who have been nominated under chapter 29.24 RCW shall appear on the appropriate ballot at the primary throughout the jurisdiction in which they are to be nominated. [1990 c 59 § 93.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.30.010 Uniformity, arrangement, contents required. (Effective July 1, 1992.)** Every ballot for a single combination of issues and offices shall be uniform within a precinct and shall identify the type of primary or election, the county, and the date of the primary or election, and the ballot or voting device shall contain instructions on the proper method of recording a vote, including write-in votes. Each position, together with the names of the candidates for that office, shall be clearly separated from other offices or positions in the same jurisdiction. The offices in each jurisdiction shall be clearly separated from each other. No paper ballot or ballot card may be marked in any way that would permit the identification of the person who voted that ballot. [1990 c 59 § 10; 1986 c 167 § 10; 1977 ex.s. c 361 § 51; 1965 c 9 § 29.30.010. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1986 c 167:** See note following RCW 29.01.055.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.020 Order of offices and issues—Party indication. (Effective July 1, 1992.)** The positions or offices

on a primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; superintendent of public instruction; insurance commissioner; state senator; state representative; county officers; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions on the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

The order of the positions or offices on an election ballot shall be substantially the same as on a primary ballot except that the offices of president and vice-president of the United States shall precede all other offices on a presidential election ballot. State ballot issues shall be placed before all offices on an election ballot. The positions on a ballot to be assigned to ballot measures regarding local units of government shall be established by the secretary of state by rule.

The political party or independent candidacy of each candidate for partisan office shall be indicated next to the name of the candidate on the primary and election ballot. [1990 c 59 § 11; 1977 ex.s. c 361 § 52; 1971 c 81 § 76; 1965 c 9 § 29.30.020. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.025 Order of candidates on ballots. (Effective July 1, 1992.)** After the close of business on the last day for candidates to file for office, the filing officer shall, from among those filings made in person and by mail, determine by lot the order in which the names of those candidates will appear on all sample and absentee ballots. In the case of candidates for city, town, and district office, this procedure shall also determine the order for candidate names on the official primary ballot used at the polling place. The determination shall be done publicly and may be witnessed by the media and by any candidate. If no primary is required for any nonpartisan office under RCW 29.15.150 or 29.21.015, the names shall appear on the general election ballot in the order determined by lot. [1990 c 59 § 80.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.30.030 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.040 Primaries—Rotating names of candidates. (Effective July 1, 1992.)** At primaries, the names of candidates for federal, state, and county partisan offices, for the office of superintendent of public instruction, and for judicial offices shall, for each office or

position, be arranged initially in the order determined under RCW 29.30.025. Additional sets of ballots shall be prepared in which the positions of the names of all candidates for each office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of names. As nearly as possible an equal number of ballots shall be prepared after each change. In making the changes of position between each set of ballots, the candidates for each such office in the first position under the office heading shall be moved to the last position under that office heading, and each other name shall be moved up to the position immediately above its previous position under that office heading. The effect of this rotation of the order of the names shall be that the name of each candidate for an office or position shall appear first, second, and so forth for that office or position on the ballots of a nearly equal number of registered voters in that jurisdiction. In a precinct using voting devices, the names of the candidates for each office shall appear in only one sequence in that precinct. The names of candidates for city, town, and district office on the ballot at the primary shall not be rotated. [1990 c 59 § 94; 1977 ex.s. c 361 § 54; 1965 c 9 § 29.30.040. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.060 Sample ballots. (Effective July 1, 1992.)** Except in each county with a population of one million or more, on or before the fifteenth day before a primary or election, the county auditor shall prepare a sample ballot which shall be made readily available to members of the public. The secretary of state shall adopt rules governing the preparation of sample ballots in counties with a population of one million or more. The rules shall permit, among other alternatives, the preparation of more than one sample ballot by a county with a population of one million or more for a primary or election, each of which lists a portion of the offices and issues to be voted on in that county. The position of precinct committee officer shall be shown on the sample ballot for the general election, but the names of candidates for the individual positions need not be shown. [1991 c 363 § 33; 1990 c 59 § 12; 1987 c 295 § 3; 1986 c 120 § 3; 1977 ex.s. c 361 § 55; 1965 c 9 § 29.30.060. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

**Effective dates—1991 c 363 §§ 28, 29, 33, 47, 131:** See note following RCW 28A.315.670.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.061 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.081 Arrangement of instructions, measures, offices—Order of candidates—Numbering of ballots.** (Effective July 1, 1992.) (1) On the top of each ballot there shall be printed instructions directing the voters how to mark the ballot, including write-in votes. After the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters at that election.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first following the appropriate office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and independent candidates and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state.

(3) The names of candidates for president and vice-president for each political party shall be grouped together with a single response position for a voter to indicate his or her choice.

(4) All paper ballots and ballot cards shall be sequentially numbered in such a way to permit removal of such numbers without leaving any identifying marks on the ballot. [1990 c 59 § 13; 1986 c 167 § 11; 1982 c 121 § 1; 1977 ex.s. c 361 § 60.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1986 c 167:** See note following RCW 29.01.055.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.085 Nonpartisan candidates qualified for general election.** (Effective July 1, 1992.) (1) Except as provided under subsection (2) of this section, on the ballot at the general election for a nonpartisan office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for any other nonpartisan office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW 29.30.025.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that

office or position, only the name of that candidate may be printed under the title of the office for that position. [1990 c 59 § 95.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.30.091 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.095 Partisan candidates qualified for general election.** (Effective July 1, 1992.) The name of a candidate for a partisan office for which a primary was conducted shall not be printed on the ballot for that office at the subsequent general election unless the candidate receives a number of votes equal to at least one percent of the total number cast for all candidates for that position sought and a plurality of the votes cast for the candidates of his or her party for that office at the preceding primary. [1990 c 59 § 96.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.30.101 Names qualified to appear on election ballot.** (Effective July 1, 1992.) The names of the persons certified as nominees by the secretary of state or the county canvassing board shall be printed on the ballot at the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention or the state or county central committee of a major political party to fill a vacancy on its ticket under RCW 29.18.160.

Excluding the office of precinct committee officer, a candidate's name shall not appear more than once upon a ballot. [1990 c 59 § 14; 1987 c 295 § 4; 1977 ex.s. c 361 § 58.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.30.105 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.130 Expense of printing and distributing ballot materials.** (Effective July 1, 1992.) The cost of printing ballots, ballot cards, and instructions and the delivery of this material to the precinct election officers shall be an election cost that shall be borne as determined under RCW 29.13.045 and 29.13.047, as appropriate. [1990 c 59 § 16; 1965 c 9 § 29.30.130. Prior: 1889 p 400 § 1; RRS § 5269.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Constituencies to bear all or share of election costs—Procedure to recover:** RCW 29.13.045.

**29.30.310 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.320 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.330 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.340 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.350 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.370 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.380 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.390 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.410 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.420 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.430 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.440 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.450 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.460 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.480 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.30.490 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 29.33**  
**VOTING SYSTEMS**  
**(EFFECTIVE JULY 1, 1992)**  
(Formerly: Voting machines)

Sections

- 29.33.010 Repealed. (Effective July 1, 1992.)
- 29.33.015 Repealed. (Effective July 1, 1992.)
- 29.33.020 Authority for use. (Effective July 1, 1992.)
- 29.33.041 Inspection and test by secretary of state—Report. (Effective July 1, 1992.)
- 29.33.051 Submitting system or component for examination. (Effective July 1, 1992.)
- 29.33.061 Independent evaluation. (Effective July 1, 1992.)
- 29.33.081 Approval required for use in primary or election—Modification. (Effective July 1, 1992.)
- 29.33.090 Repealed. (Effective July 1, 1992.)
- 29.33.110 Repealed. (Effective July 1, 1992.)
- 29.33.120 Repealed. (Effective July 1, 1992.)
- 29.33.130 Responsibility for maintenance and operation. (Effective July 1, 1992.)
- 29.33.140 Repealed. (Effective July 1, 1992.)
- 29.33.145 Acceptance test. (Effective July 1, 1992.)
- 29.33.150 Repealed. (Effective July 1, 1992.)
- 29.33.160 Repealed. (Effective July 1, 1992.)
- 29.33.170 Repealed. (Effective July 1, 1992.)
- 29.33.180 Repealed. (Effective July 1, 1992.)
- 29.33.190 Repealed. (Effective July 1, 1992.)
- 29.33.200 Repealed. (Effective July 1, 1992.)
- 29.33.210 Repealed. (Effective July 1, 1992.)
- 29.33.220 Repealed. (Effective July 1, 1992.)
- 29.33.230 Recodified as RCW 29.54.121. (Effective July 1, 1992.)
- 29.33.300 Requirements of voting devices for approval. (Effective July 1, 1992.)
- 29.33.310 Single district and precinct on voting devices. (Effective July 1, 1992.)
- 29.33.320 Requirements of vote tallying systems for approval. (Effective July 1, 1992.)
- 29.33.330 Record of ballot format—Devices sealed. (Effective July 1, 1992.)
- 29.33.340 Election officials—Instruction, compensation, requirements. (Effective July 1, 1992.)
- 29.33.350 Vote tallying systems—Programming tests. (Effective July 1, 1992.)
- 29.33.360 Procedure manuals. (Effective July 1, 1992.)

**29.33.010 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.015 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.020 Authority for use.** (Effective July 1, 1992.) At any primary or election in any county, votes may be cast, registered, recorded, or counted by means of voting systems that have been approved under RCW 29.33.041. [1990 c 59 § 17; 1967 ex.s. c 109 § 12; 1965 c 9 § 29.33.020. Prior: (i) 1913 c 58 § 1, part; RRS § 5300, part. (ii) 1913 c 58 § 18; RRS § 5318.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.33.041 Inspection and test by secretary of state—Report.** (Effective July 1, 1992.) The secretary of state shall inspect, evaluate, and publicly test all voting systems or components of voting systems that are submitted for review under RCW 29.33.051. The secretary of state shall determine whether the voting systems conform with all of the requirements of this title, the applicable rules adopted in accordance with this title, and with generally accepted safety requirements. The secretary of state shall transmit a copy of the report of any examination under this section, within thirty days after completing the examination, to the county auditor of each county. [1990 c 59 § 18; 1982 c 40 § 1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 40 § 11.]

**29.33.051 Submitting system or component for examination.** (Effective July 1, 1992.) The manufacturer or distributor of a voting system or component of a voting system may submit that system or component to the secretary of state for examination under RCW 29.33.041. [1990 c 59 § 19; 1982 c 40 § 2.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** See note following RCW 29.33.041.

**29.33.061 Independent evaluation.** (Effective July 1, 1992.) (1) The secretary of state may rely on the results of independent design, engineering, and performance evaluations in the examination under RCW 29.33.041 if the source and scope of these independent evaluations are specified by rule.

(2) The secretary of state may contract with experts in mechanical or electrical engineering or data processing to assist in examining a voting system or component. The manufacturer or distributor who has submitted a voting system for testing under RCW 29.33.051 shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation under this section and for any other unrecoverable costs associated with the examination of a voting system or component by the manufacturer or distributor who submitted the voting system or component for examination. [1990 c 59 § 20; 1982 c 40 § 3.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** See note following RCW 29.33.041.

**29.33.081 Approval required for use in primary or election—Modification.** (Effective July 1, 1992.) If voting systems or devices or vote tallying systems are to be used for conducting a primary or election, only those that have the approval of the secretary of state or had been approved under this chapter or chapter 29.34 RCW before March 22, 1982, may be used. Any modification, change, or improvement to any voting system or component of a system that does not impair its accuracy, efficiency, or capacity or extend its function, may be made

without reexamination or reapproval by the secretary of state under RCW 29.33.041. [1990 c 59 § 21; 1982 c 40 § 4.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** See note following RCW 29.33.041.

**29.33.090 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.110 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.120 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.130 Responsibility for maintenance and operation.** (Effective July 1, 1992.) The county auditor of a county in which voting systems are used is responsible for the preparation, maintenance, and operation of those systems and may employ and direct persons to perform some or all of these functions. [1990 c 59 § 22; 1965 c 9 § 29.33.130. Prior: 1955 c 323 § 2; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Recanvass of machine votes—Procedure to test counting mechanism—Statement:* RCW 29.62.070.

**29.33.140 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.145 Acceptance test.** (Effective July 1, 1992.) An agreement to purchase or lease a voting system or a component of a voting system is subject to that system or component passing an acceptance test prescribed by the secretary of state sufficient to demonstrate that the equipment is identical to that certified by the secretary of state and that the equipment is operating correctly as delivered to the county. [1990 c 59 § 23.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.33.150 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.160 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.170 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.180 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.190 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.200 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.210 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.220 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.230 Recodified as RCW 29.54.121.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.33.300 Requirements of voting devices for approval.** (Effective July 1, 1992.) No voting device shall be approved by the secretary of state unless it:

- (1) Secures to the voter secrecy in the act of voting;
- (2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- (3) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;
- (4) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice-president of the United States; and
- (6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction. [1990 c 59 § 26; 1982 c 40 § 6; 1977 ex.s. c 361 § 66; 1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18. Formerly RCW 29.34.080.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** See note following RCW 29.33.041.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**Severability—1971 ex.s. c 6:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 6 § 3.]

**29.33.310 Single district and precinct on voting devices.** (Effective July 1, 1992.) The ballot on a single voting device shall not contain the names of candidates for the offices of United States representative, state senator, state representative, county council, or county commissioner in more than one district. In all general elections, primaries, and special elections, in each polling

place the voting devices containing ballots for candidates from each congressional, legislative, or county council or commissioner district shall be grouped together and physically separated from those devices containing ballots for other districts. Each voter shall be directed by the precinct election officers to the correct group of voting devices. [1990 c 59 § 27; 1989 c 155 § 1; 1987 c 295 § 8; 1983 c 143 § 1. Formerly RCW 29.34.085.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.33.320 Requirements of vote tallying systems for approval.** (Effective July 1, 1992.) The secretary of state shall not approve a vote tallying system unless it:

- (1) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;
- (2) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;
- (3) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each issue of the ballot in that precinct;
- (4) Accommodates rotation of candidates' names on the ballot under RCW 29.30.040;
- (5) Produces precinct and cumulative totals in printed form; and
- (6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction. [1990 c 59 § 28; 1982 c 40 § 7; 1967 ex.s. c 109 § 19. Formerly RCW 29.34.090.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1982 c 40:** See note following RCW 29.33.041.

**29.33.330 Record of ballot format—Devices sealed.** (Effective July 1, 1992.) In preparing a voting device for a primary or election, a record shall be made of the ballot format installed in each device and the precinct or portion of a precinct for which that device has been prepared. Except where provided by a rule adopted under RCW 29.04.210, after being prepared for a primary or election, each device shall be sealed with a uniquely numbered seal and provided to the inspector of the appropriate polling place. [1990 c 59 § 25.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.33.340 Election officials—Instruction, compensation, requirements.** (Effective July 1, 1992.) (1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all precinct election officers appointed under RCW 29.45.010, counting center personnel, and political party observers designated under RCW 29.54.025 in the proper conduct of their duties.

(2) The county auditor may waive instructional requirements for precinct election officers, counting center

personnel, and political party observers who have previously received instruction and who have served for a sufficient length of time to be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) As compensation for the time spent in receiving instruction, each precinct election officer who qualifies and serves at the subsequent primary or election shall receive an additional two hours compensation, to be paid at the same time and in the same manner as compensation is paid for services on the day of the primary or election.

(4) Except for the appointment of a precinct election officer to fill a vacancy under RCW 29.45.040, no inspector or judge may serve at any primary or election at which voting systems are used unless he or she has received the required instruction and is qualified to perform his or her duties in connection with the voting devices. No person may work in a counting center at a primary or election at which a vote tallying system is used unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling and tallying of ballots for that primary or election. No person may serve as a political party observer unless that person has received the required instruction and is familiar with the operation of the counting center and the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system. [1990 c 59 § 29; 1977 ex.s. c 361 § 69. Formerly RCW 29.34.143.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.33.350 Vote tallying systems—Programming tests.** (Effective July 1, 1992.) At least three days before each state primary or general election, the programming for each vote tallying system to be used at that primary or general election shall be tested by the office of the secretary of state to verify that the system will correctly count the vote cast for all candidates and on all measures appearing on the ballot at that primary or general election. The tests shall be conducted by processing a preaudited group of ballots marked with a predetermined number of ballot votes for each candidate and for and against each measure. For each office for which there are two or more candidates and for each issue, the group of test ballots shall include one or more ballots which have votes in excess of the number allowed by law, in order to verify the ability of the vote tallying system to reject such votes. The test shall verify the capability of the vote tallying system to perform all of the functions that can reasonably be expected to occur during conduct of that particular primary or election. If any error is detected, the cause shall be determined and corrected, and an errorless total shall be produced before the primary or election.

Such tests shall be observed by at least one representative from each major political party, if representatives

have been appointed by the respective major political parties and are present at the test, and shall be open to candidates, the press, and the public. The secretary of state, the county auditor, and any political party observers shall certify that the test has been conducted in accordance with this section. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or general election. [1990 c 59 § 32; 1977 ex.s. c 361 § 73. Formerly RCW 29.34.163.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.33.360 Procedure manuals.** (Effective July 1, 1992.) The secretary of state shall publish manuals of recommended procedures for the operation of the various vote tallying systems that have been approved. These manuals shall contain any applicable rules and statutes relating to the printing of ballots and preparation and testing of the various vote tallying systems, the duties and functions of the precinct election officers, and the duties and functions of the counting center personnel and operators of vote tallying systems at counting centers. [1990 c 59 § 34; 1977 ex.s. c 361 § 75; 1967 ex.s. c 109 § 32. Formerly RCW 29.34.170.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

## Chapter 29.34

### VOTING DEVICES AND VOTE TALLYING SYSTEMS

#### Sections

29.34.010	Repealed. (Effective July 1, 1992.)
29.34.080	Recodified as RCW 29.33.300. (Effective July 1, 1992.)
29.34.085	Recodified as RCW 29.33.310. (Effective July 1, 1992.)
29.34.090	Recodified as RCW 29.33.320. (Effective July 1, 1992.)
29.34.125	Repealed. (Effective July 1, 1992.)
29.34.130	Repealed. (Effective July 1, 1992.)
29.34.140	Repealed. (Effective July 1, 1992.)
29.34.143	Recodified as RCW 29.33.340. (Effective July 1, 1992.)
29.34.145	Repealed. (Effective July 1, 1992.)
29.34.153	Recodified as RCW 29.54.025. (Effective July 1, 1992.)
29.34.157	Recodified as RCW 29.54.037. (Effective July 1, 1992.)
29.34.163	Recodified as RCW 29.33.350. (Effective July 1, 1992.)
29.34.167	Recodified as RCW 29.54.085. (Effective July 1, 1992.)
29.34.170	Recodified as RCW 29.33.360. (Effective July 1, 1992.)
29.34.180	Repealed. (Effective July 1, 1992.)

**29.34.010 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.080 Recodified as RCW 29.33.300.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.085 Recodified as RCW 29.33.310.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.090 Recodified as RCW 29.33.320.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.125 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.130 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.140 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.143 Recodified as RCW 29.33.340.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.145 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.153 Recodified as RCW 29.54.025.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.157 Recodified as RCW 29.54.037.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.163 Recodified as RCW 29.33.350.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.167 Recodified as RCW 29.54.085.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.170 Recodified as RCW 29.33.360.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.34.180 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 29.36 ABSENTEE VOTING

### Sections

- 29.36.010 When permitted—Request for absentee ballot. (Effective July 1, 1992.)
- 29.36.013 Ongoing absentee status—Request for—Termination. (Effective July 1, 1992.)
- 29.36.030 Acceptance or rejection of request—Issuance of ballots and other materials. (Effective July 1, 1992.)

- 29.36.060 Processing incoming absentee ballots. (Effective July 1, 1992.)
- 29.36.070 Grouping of absentee ballots.
- 29.36.097 Record of requests for absentee ballots—Public access. (Effective July 1, 1992.)
- 29.36.130 Election by mail—Small precincts, nonpartisan special elections—Ballot contents, counting, secrecy, authorized observers. (Effective July 1, 1992.)
- 29.36.160 Penalty. (Effective July 1, 1992.)
- 29.36.170 Special absentee ballots. (Effective July 1, 1992.)

**29.36.010 When permitted—Request for absentee ballot.** (Effective July 1, 1992.) Any registered voter of the state or any out-of-state voter, overseas voter, or service voter may vote by absentee ballot in any general election, special election, or primary in the manner provided in this chapter. Out-of-state voters, overseas voters, and service voters are authorized to cast the same ballots, including those for special elections, as a registered voter of the state would receive under this chapter.

(1) Except as provided in subsections (2) and (3) of this section, in RCW 29.36.013, and in RCW 29.36.170, a registered voter or elector desiring to cast an absentee ballot must request the absentee ballot from his or her county auditor no earlier than forty-five days nor later than the day before any election or primary. Except as provided in subsection (3) of this section and in RCW 29.36.170, the request may be made orally in person, by telephone, or in writing. An application or request for an absentee ballot made under the authority of any federal statute or regulation shall be considered and given the same effect as a request for an absentee ballot under this chapter.

(2) For any registered voter, a request for an absentee ballot for a primary shall be honored as a request for an absentee ballot for the following general election if the voter so indicates in his or her request. For any out-of-state voter, overseas voter, or service voter, a request for an absentee ballot for a primary election shall also be honored as a request for an absentee ballot for the following general election.

(3) A voter admitted to a hospital no earlier than five days before a primary or election and confined to the hospital on election day may apply by messenger for an absentee ballot on the day of the primary or election if a signed statement from the hospital administrator, or designee, verifying the voter's date of admission and status as a patient in the hospital on the day of the primary or election is attached to the voter's written application for an absentee ballot.

(4) In a voter's request for an absentee ballot, the voter shall state the address to which the absentee ballot should be sent. A request for an absentee ballot from an out-of-state voter, overseas voter, or service voter shall state the address of that elector's last residence for voting purposes in the state of Washington and either a written application or the oath on the return envelope shall include a declaration of the other qualifications of the applicant as an elector of this state. A request for an absentee ballot from any other voter shall state the address at which that voter is currently registered to vote in the state of Washington or the county auditor shall

verify such information from the voter registration records of the county.

(5) A request for an absentee ballot from a registered voter who is within this state shall be made directly to the auditor of the county in which the voter is registered. An absentee ballot request from a registered voter who is temporarily outside this state or from an out-of-state voter, overseas voter, or service voter may be made either to the appropriate county auditor or to the secretary of state, who shall promptly forward the request to the appropriate county auditor. No person, organization, or association may distribute absentee ballot applications within this state that contain any return address other than that of the appropriate county auditor.

(6) A person may request an absentee ballot for use by the person as a registered voter and may request an absentee ballot on behalf of any member of that person's immediate family who is a registered voter for use by the family member. As a means of ensuring that a person who requests an absentee ballot is requesting the ballot for only that person or a member of the person's immediate family, the secretary of state shall adopt rules prescribing the circumstances under which an auditor: May require a person who requests an absentee ballot to identify the date of birth of the voter for whom the ballot is requested; and may deny a request which is not accompanied by this information. [1991 c 81 § 29; 1987 c 346 § 9; 1986 c 167 § 14; 1985 c 273 § 1; 1984 c 27 § 1; 1977 ex.s. c 361 § 76; 1974 ex.s. c 35 § 1; 1971 ex.s. c 202 § 37; 1965 c 9 § 29.36.010. Prior: 1963 ex.s. c 23 § 1; 1955 c 167 § 2; prior: (i) 1950 ex.s. c 8 § 1; 1943 c 72 § 1; 1933 ex.s. c 41 § 1; 1923 c 58 § 1; 1921 c 143 § 1; 1917 c 159 § 1; 1915 c 189 § 1; Rem. Supp. 1943 § 5280. (ii) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—1987 c 346: "By this act the legislature intends to combine and unify the laws and procedures governing absentee voting. These amendments are intended: (1) To clarify and incorporate into a single chapter of the Revised Code of Washington the preexisting statutes under which electors of this state qualify for absentee ballots under state law, federal law, or a combination of both state and federal law, and (2) to insure uniformity in the application, issuance, receipt, and canvassing of these absentee ballots. Nothing in this act is intended to impose any new requirement on the ability of the registered voters or electors of this state to qualify for, receive, or cast absentee ballots in any primary or election." [1987 c 346 § 1.]

**Effective date**—1987 c 346: "This act shall take effect on January 1, 1988." [1987 c 346 § 25.]

The above two annotations apply to 1987 c 346. For codification of that act, see Codification Tables, Volume 0.

**Severability**—1986 c 167: See note following RCW 29.01.055.

**Effective date**—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

**29.36.013 Ongoing absentee status—Request for—Termination.** (Effective July 1, 1992.) Any disabled voter or any voter over the age of sixty-five may apply, in writing, for status as an ongoing absentee voter. Each such voter shall be granted that status by his or her county auditor and shall automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote and need not submit a separate

request for each election. Ballots received from ongoing absentee voters shall be validated, processed, and tabulated in the same manner as other absentee ballots.

Status as an ongoing absentee voter shall be terminated upon any of the following events:

- (1) The written request of the voter;
- (2) The death or disqualification of the voter;
- (3) The cancellation of the voter's registration record;
- (4) The return of an ongoing absentee ballot as undeliverable; or
- (5) January 1st of each odd-numbered year. [1991 c 81 § 30; 1987 c 346 § 10; 1986 c 22 § 1; 1985 c 273 § 2.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—Effective date—1987 c 346: See notes following RCW 29.36.010.

**29.36.030 Acceptance or rejection of request—Issuance of ballots and other materials.** (Effective July 1, 1992.) If the information contained in a request for an absentee ballot received by the county auditor is complete and correct and the applicant is qualified to vote under federal or state law, the county auditor shall issue an absentee ballot for the primary or election for which the absentee ballot was requested. Otherwise, the county auditor shall notify the applicant of the reason or reasons why the request cannot be accepted.

At each general election in an even-numbered year, each absentee voter shall also be given a separate ballot containing the names of the candidates that have filed for the office of precinct committee officer unless fewer than two candidates have filed for the same political party in the absentee voter's precinct. The ballot shall provide space for writing in the name of additional candidates.

When mailing an absentee ballot to a registered voter temporarily outside the state or to an out-of-state voter, overseas voter, or service voter, the county auditor shall send a copy of the state voters' and candidates' pamphlet with the absentee ballot. The county auditor shall mail all absentee ballots and related material to voters outside the territorial limits of the United States and the District of Columbia under 39 U.S.C. 3406. [1991 c 81 § 31. Prior: 1987 c 346 § 11; 1987 c 295 § 9; 1977 ex.s. c 361 § 77; 1974 ex.s. c 73 § 1; 1965 c 9 § 29.36.030; prior: 1963 ex.s. c 23 § 3; 1955 c 167 § 4; prior: (i) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part. (ii) 1933 ex.s. c 41 § 3, part; 1923 c 58 § 3, part; 1921 c 143 § 3, part; 1917 c 159 § 3, part; 1915 c 189 § 3, part; RRS § 5282, part.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—Effective date—1987 c 346: See notes following RCW 29.36.010.

**Effective date**—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

**29.36.060 Processing incoming absentee ballots.** (Effective July 1, 1992.) The opening and subsequent processing of return envelopes for any primary or election may begin on or after the tenth day prior to such

primary or election. The opening of the security envelopes and tabulation of absentee ballots shall not commence until after 8:00 o'clock p.m. on the day of the primary or election.

After opening the return envelopes, the county canvassing board shall place all of the ballot envelopes in containers that can be secured with numbered seals. These sealed containers shall be stored in a secure location until after 8:00 o'clock p.m. of the day of the primary or election. Absentee ballots that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation before sealing the containers.

The canvassing board shall examine the postmark, statement, and signature on each return envelope containing the security envelope and absentee ballot. They shall verify that the voter's signature is the same as that in the registration files for that voter. For absentee voters other than out-of-state voters, overseas voters, and service voters, if the postmark is illegible, the date on the return envelope to which the voter attests shall determine the validity, as to the time of voting, of that absentee ballot under this chapter. For any absentee voter, a variation between the signature of the voter on the return envelope and that in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same. [1991 c 81 § 32; 1987 c 346 § 14; 1977 ex.s. c 361 § 78; 1973 c 140 § 1; 1965 c 9 § 29.36.060. Prior: 1963 ex.s. c 23 § 5; 1955 c 167 § 7; 1955 c 50 § 2; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—**Effective date**—1987 c 346: See notes following RCW 29.36.010.

**Effective date**—**Severability**—1977 ex.s. c 361: See notes following RCW 29.01.006.

*County canvassing board, meeting to process absentee ballots, canvass returns: RCW 29.62.020.*

**29.36.070 Grouping of absentee ballots.** The absentee ballots shall be grouped and counted by congressional and legislative district without regard to precinct, except as required under RCW 29.62.090(2).

These returns shall be added to the total of the votes cast at the polling places. [1990 c 262 § 2; 1987 c 346 § 15; 1974 ex.s. c 73 § 2; 1965 c 9 § 29.36.070. Prior: 1955 c 50 § 3; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part.]

**Legislative intent**—**Effective date**—1987 c 346: See notes following RCW 29.36.010.

**29.36.097 Record of requests for absentee ballots—Public access.** (Effective July 1, 1992.) Each county auditor shall maintain in his or her office, open for public inspection, a record of the requests he or she has received for absentee ballots under this chapter.

The information from the requests shall be recorded and lists of this information shall be available no later than twenty-four hours after their receipt.

This information about absentee voters shall be available according to the date of the requests and by legislative district. It shall include the name of each applicant, the address and precinct in which the voter maintains a voting residence, the date on which an absentee ballot was issued to this voter, if applicable, the type of absentee ballot, and the address to which the ballot was or is to be mailed, if applicable.

The auditor shall make copies of these records available to the public for the actual cost of production or copying. [1991 c 81 § 33; 1987 c 346 § 17; 1973 1st ex.s. c 61 § 1.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—**Effective date**—1987 c 346: See notes following RCW 29.36.010.

**29.36.130 Election by mail—Small precincts, non-partisan special elections—Ballot contents, counting, secrecy, authorized observers.** (Effective July 1, 1992.) All mail ballots authorized by RCW 29.36.120 shall contain the same offices, names of candidates, and propositions to be voted upon, including precinct offices, as if the ballot had been voted in person at the polling place. Except as otherwise provided in RCW 29.36.120 and 29.36.122 through 29.36.126 and 29.36.139, such mail ballots shall be issued and canvassed in the same manner as absentee ballots issued pursuant to the request of the voter. The county canvassing board, at the request of the county auditor, may direct that mail ballots be counted on the day of the election. If such count is made, it must be done in secrecy in the presence of at least three election officials and the results not revealed to any unauthorized person until the polls have closed. If electronic vote tallying devices are used, political party observers shall be afforded the opportunity to be present, and a test of the equipment must be performed as required by RCW 29.33.350 prior to the count of ballots. Political party observers shall be allowed to count by hand ballots from up to ten precincts selected by the observers. Any violation of the secrecy of such count shall be subject to the same penalties as provided for in RCW 29.85.225. [1990 c 59 § 76; 1983 1st ex.s. c 71 § 5; 1967 ex.s. c 109 § 7.]

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**29.36.160 Penalty.** (Effective July 1, 1992.) A person who willfully violates any provision of this chapter regarding the assertion or declaration of qualifications to receive or cast an absentee ballot, unlawfully casts a vote by absentee ballot, or willfully violates any provision regarding the conduct of mail ballot special elections under RCW 29.36.120 through 29.36.139 is guilty of a class C felony punishable under RCW 9A.20.021. Except as provided in chapter 29.85 RCW a person who willfully violates any other provision of this chapter is guilty of a misdemeanor. [1991 c 81 § 34; 1987 c 346 § 20; 1983 1st ex.s. c 71 § 9.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—**Effective date**—1987 c 346: See notes following RCW 29.36.010.

**29.36.170 Special absentee ballots.** (Effective July 1, 1992.) (1) As provided in this section, county auditors shall provide special absentee ballots to be used for state primary or state general elections. A special absentee ballot shall only be provided to a voter who completes an application stating that:

(a) The voter believes that she or he will be residing or stationed or working outside the continental United States; and

(b) The voter believes that she or he will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot may not be filed earlier than ninety days before the applicable state primary or general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the state primary or general election ballot. The voter may use the special absentee ballot to write in the name of any eligible candidate for each office and vote on any measure.

(2) With any special absentee ballot issued under this section, the county auditor shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that primary or election and a list of any issues that have been referred to the ballot before the time of the application.

(3) Write-in votes on special absentee ballots shall be counted in the same manner provided by law for the counting of other write-in votes. The county auditor shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots under chapters 29.36 and 29.62 RCW.

(4) A voter who requests a special absentee ballot under this section may also request an absentee ballot under RCW 29.36.010. If the regular absentee ballot is properly voted and returned, the special absentee ballot shall be deemed void and the county auditor shall reject it in whole when special absentee ballots are canvassed. [1991 c 81 § 35; 1987 c 346 § 21.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Legislative intent**—**Effective date**—1987 c 346: See notes following RCW 29.36.010.

**Chapter 29.42**

**POLITICAL PARTIES**

Sections

29.42.040	Precinct committee officer, eligibility. (Effective July 1, 1992.)
29.42.050	Precinct committee officer—Election—Declaration of candidacy, fee—Term—Vacancy.
29.42.070	Legislative district chair—Election—Term—Removal.

**29.42.040 Precinct committee officer, eligibility.** (Effective July 1, 1992.) Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his or her declaration of candidacy as prescribed under RCW 29.15.010 with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct and until a successor has been elected at the next ensuing state general election in the even-numbered year. [1990 c 59 § 104. Prior: 1987 c 295 § 13; 1987 c 133 § 3; 1973 c 4 § 6; 1965 c 9 § 29-42.040; prior: 1961 c 130 § 5; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

*Precinct election officers, precinct committee officer to certify list of persons qualified: RCW 29.45.030.*

**29.42.050 Precinct committee officer—Election—Declaration of candidacy, fee—Term—Vacancy.** The statutory requirements for filing as a candidate at the primaries shall apply to candidates for precinct committee officer except that the filing period for this office alone shall be extended to and include the Friday immediately following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, and the office shall not be voted upon at the primaries, but the names of all candidates must appear under the proper party and office designations on the ballot for the general November election for each even-numbered year and the one receiving the highest number of votes shall be declared elected: **PROVIDED**, That to be declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of the candidate's party receiving the greatest number of votes in the precinct. Any person elected to the office of precinct committee officer who has not filed a declaration of candidacy shall pay the fee of one dollar to the county auditor for a certificate of election. The term of office of precinct committee officer shall be for two years, commencing upon completion of the official canvass of votes by the county canvassing board of election returns. Should any vacancy occur in this office by reason of death, resignation, or disqualification of the incumbent, or because of failure to elect, the respective county chair of the county central committee shall be empowered to fill such vacancy by appointment: **PROVIDED, HOWEVER**, That in legislative districts having a majority of its precincts in a county with a population of one million or more, such appointment shall be made only upon the recommendation of the legislative district chair: **PROVIDED**, That the person so appointed shall have the same qualifications as candidates when filing for election to such office for such precinct: **PROVIDED FURTHER**, That when a vacancy in the office of precinct committee officer exists because of failure to elect at a state general election,

such vacancy shall not be filled until after the organization meeting of the county central committee and the new county chair selected as provided by RCW 29.42.030. [1991 c 363 § 34; 1987 c 295 § 14; 1973 c 4 § 7; 1967 ex.s. c 32 § 2; 1965 ex.s. c 103 § 3; 1965 c 9 § 29.42.050. Prior: 1961 c 130 § 6; prior: 1953 c 196 § 1; 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1967 ex.s. c 32:** See note following RCW 29.42.070. *Notice of general election, office to be indicated:* RCW 29.04.020.

**29.42.070 Legislative district chair—Election—Term—Removal.** Within forty-five days after the state-wide general election in even-numbered years, or within thirty days following July 30, 1967, for the biennium ending with the 1968 general elections, the county chair of each major political party shall call separate meetings of all elected precinct committee officers in each legislative district a majority of the precincts of which are within a county with a population of one million or more for the purpose of electing a legislative district chair in such district. The district chair shall hold office until the next legislative district reorganizational meeting two years later, or until a successor is elected.

The legislative district chair can only be removed by the majority vote of the elected precinct committee officers in the chair's district. [1991 c 363 § 35; 1987 c 295 § 15; 1967 ex.s. c 32 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1967 ex.s. c 32:** "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 32 § 3.]

*Precinct committee officer, appointment to fill vacancy in office of to be made on recommendation of legislative district chair:* RCW 29.42.050.

## Chapter 29.45

### PRECINCT ELECTION OFFICERS

#### Sections

29.45.010	Appointment of judges and inspector.
29.45.030	Nomination.
29.45.060	Duties—Generally. (Effective July 1, 1992.)

**29.45.010 Appointment of judges and inspector.** (1) At least ten days prior to any primary or election, general or special, the county auditor shall appoint one inspector and two judges of election for each precinct (or each combination of precincts temporarily consolidated as a single precinct for that primary or election), other than those precincts designated as vote-by-mail precincts pursuant to RCW 29.36.120. Except as provided in subsection (3) of this section, the persons appointed shall be among those whose names are contained on the lists furnished under RCW 29.45.030 by the chairpersons of the county central committees of the political

parties entitled to representation thereon. Such precinct election officers, whenever possible, should be residents of the precinct in which they serve.

(2) The county auditor may delete from the lists of names submitted to the auditor by the chairpersons of the county central committees under RCW 29.45.030: (a) The names of those persons who indicate to the auditor that they cannot or do not wish to serve as precinct election officers for the primary or election or who otherwise cannot so serve; and (b) the names of those persons who lack the ability to conduct properly the duties of an inspector or judge of election after training in that proper conduct has been made available to them by the auditor. The lists which are submitted to the auditor in a timely manner under RCW 29.45.030, less the deletions authorized by this subsection, constitute the official nomination lists for inspectors and judges of election.

(3) If the number of persons whose names are on the official nomination list for a political party is not sufficient to satisfy the requirements of subsection (4) of this section as it applies to that political party or is otherwise insufficient to provide the number of precinct election officials required from that political party, the auditor shall notify the chair of the party's county central committee regarding the deficiency. The chair may, within five business days of being notified by the auditor, add to the party's nomination list the names of additional persons belonging to that political party who are qualified to serve on the election boards. To the extent that, following this procedure, the number of persons whose names appear on the official nomination lists of the political parties is insufficient to provide the number of election inspectors and judges required for a primary or election, the auditor may appoint a properly trained person whose name does not appear on such a list as an inspector or judge of election for a precinct.

(4) The county auditor shall designate the inspector and one judge in each precinct from that political party which polled the highest number of votes in the county for its candidate for president at the last preceding presidential election and one judge from that political party polling the next highest number of votes in the county for its candidate for president at the same election. The provisions of this subsection apply only if the number of names on the official nomination list for inspectors and judges of election for a political party is sufficient to satisfy the requirements imposed by this subsection.

(5) Except as provided in RCW 29.45.040 for the filling of vacancies, this shall be the exclusive method for the appointment of inspectors and judges to serve as precinct election officers at any primary or election, general or special, and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements. [1991 c 106 § 1; 1983 1st ex.s. c 71 § 7; 1965 ex.s. c 101 § 1; 1965 c 9 § 29.45.010. Prior: (i) 1935 c 165 § 2, part; RRS § 5147-1, part. (ii) Code 1881 § 3068, part; 1865 p 30 § 2, part; RRS § 5158, part. (iii) 1907 c 209 § 15, part; RRS § 5192, part. (iv) 1895 c 156 § 6, part; 1889 p 407 § 20, part; RRS § 5277, part. (v) 1947 c 182 § 1, part; Rem.

Supp. 1947 § 5166–10, part; prior: 1945 c 164 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

**29.45.030 Nomination.** The precinct committee officer of each major political party shall certify to the officer's county chair a list of those persons belonging to the officer's political party qualified to act upon the election board in the officer's precinct.

By the first day of June each year, the chair of the county central committee of each major political party shall certify to the officer having jurisdiction of the election a list of those persons belonging to the county chair's political party in each precinct who are qualified to act on the election board therein.

The county chair shall compile this list from the names certified by the various precinct committee officers unless no names or not [a] sufficient [number of] names have been certified from a precinct, in which event the county chair may include therein the names of qualified members of the county chair's party selected by the county chair. The county chair shall also have the authority to substitute names of persons recommended by the precinct committee officers if in the judgment of the county chair such persons are not qualified to serve as precinct election officers. [1991 c 106 § 2; 1987 c 295 § 16; 1965 ex.s. c 101 § 3; 1965 c 9 § 29.45.030. Prior: (i) 1907 c 209 § 15, part; RRS § 5192, part. (ii) 1935 c 165 § 2, part; RRS § 5147–1, part.]

**29.45.060 Duties—Generally.** (Effective July 1, 1992.) The inspector and judges of election in each precinct shall conduct the elections therein and receive, deposit, and count the ballots cast thereat and make returns to the proper canvassing board or officer except that when two or more sets of precinct election officers are appointed as provided in RCW 29.45.050, the ballots shall be counted by the counting board or boards as provided in RCW 29.54.015, 29.54.018, and 29.85.225. [1990 c 59 § 74; 1973 c 102 § 3; 1965 ex.s. c 101 § 5; 1965 c 9 § 29.45.060. Prior: 1955 c 148 § 3; prior: (i) 1923 c 53 § 4, part; 1921 c 61 § 6, part; RRS § 5148, part. (ii) 1921 c 170 § 4, part; RRS § 5153, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

## Chapter 29.48

### POLLING PLACE REGULATIONS BEFORE POLLS OPEN

#### Sections

29.48.010	Voting booths. (Effective July 1, 1992.)
29.48.030	Delivery of supplies. (Effective July 1, 1992.)
29.48.070	Inspection of voting equipment. (Effective July 1, 1992.)
29.48.100	Announcement opening the polls. (Effective July 1, 1992.)

#### 29.48.010 Voting booths. (Effective July 1, 1992.)

The county auditor shall provide in each polling place a sufficient number of voting booths or voting devices along with any supplies necessary to enable the voter to mark or register his or her choices on the ballot and within which the voters may cast their votes in secrecy. Where paper ballots are used for voting, the number of voting booths shall be at least one for every fifty registered voters in the precinct. [1990 c 59 § 35; 1965 c 9 § 29.48.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

#### 29.48.030 Delivery of supplies. (Effective July 1, 1992.)

No later than the day before a primary or election, the county auditor shall provide to the inspector or one of the judges of each precinct or to one of the inspectors of a polling place where more than one precinct will be voting, all of the ballots, precinct lists of registered voters, and other supplies necessary for conducting the election or primary. [1990 c 59 § 36; 1977 ex.s. c 361 § 81; 1971 ex.s. c 202 § 40; 1965 c 9 § 29.48.030. Prior: (i) 1921 c 178 § 8; Code 1881 § 3078; 1865 p 34 § 3; RRS § 5322. (ii) 1919 c 163 § 20, part; 1895 c 156 § 9, part; 1889 p 411 § 28, part; RRS § 5293, part. (iii) 1907 c 209 § 20; RRS § 5196. (iv) 1913 c 138 § 29, part; RRS § 5425, part. (v) 1915 c 124 § 1; 1895 c 156 § 5; 1893 c 91 § 1; 1889 p 407 § 18; RRS § 5275. (vi) 1921 c 68 § 1, part; RRS § 5320, part. (vii) 1895 c 156 § 6, part; 1889 p 407 § 20; RRS § 5277, part. (viii) 1895 c 156 § 2, part; Code 1881 § 3074; 1865 p 32 § 8; RRS § 5164, part. (ix) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (x) 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part. (xi) 1854 p 67 § 16; No RRS. (xii) 1854 p 67 § 17, part; No RRS. (xiii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (xiv) 1915 c 14 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part. (xv) 1933 c 1 § 10, part; RRS § 5114–10, part. (xvi) Code 1881 § 3093, part; RRS § 5338, part. (xvii) 1903 c 85 § 1, part; RRS § 3339, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

#### 29.48.070 Inspection of voting equipment. (Effective July 1, 1992.)

Before opening the polls for a precinct, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the precinct election officers shall verify that no votes have been registered for any issue or office to be voted on at that primary or election. Any ballot box shall be carefully examined by the judges of election to determine that it is empty. The ballot box shall then be sealed or locked. The ballot box shall not be opened before the certification of the primary or election except in

the manner and for the purposes provided under this title. [1990 c 59 § 37; 1965 c 9 § 29.48.070. Prior: 1854 p 67 § 17, part; No RRS.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.48.100 Announcement opening the polls. (Effective July 1, 1992.)** The precinct election officers, immediately before they start to issue ballots or permit a voter to vote, shall announce at the place of voting that the polls for that precinct are open. [1990 c 59 § 38; 1965 c 9 § 29.48.100. Prior: Code 1881 § 3077; 1865 p 34 § 2; RRS § 5321.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Opening and closing polls: RCW 29.13.080.*

### Chapter 29.51

#### POLLING PLACE REGULATIONS DURING VOTING HOURS

##### Sections

29.51.010	Interference with voter prohibited. (Effective July 1, 1992.)
29.51.020	Acts prohibited in vicinity of polling place—Prohibited practices as to ballots—Penalty. (Effective July 1, 1992.)
29.51.050	Issuing ballot to voter—Challenge. (Effective July 1, 1992.)
29.51.060	Signature required to vote—Procedure if voter unable to sign name. (Effective July 1, 1992.)
29.51.070	Record of participation. (Effective July 1, 1992.)
29.51.080	Repealed. (Effective July 1, 1992.)
29.51.100	Casting vote. (Effective July 1, 1992.)
29.51.110	Repealed. (Effective July 1, 1992.)
29.51.120	Repealed. (Effective July 1, 1992.)
29.51.130	Repealed. (Effective July 1, 1992.)
29.51.140	Mechanical voting devices—When all voters do not vote on all offices. (Effective July 1, 1992.)
29.51.150	Voting devices—Periodic examination. (Effective July 1, 1992.)
29.51.160	Repealed. (Effective July 1, 1992.)
29.51.175	Votes by stickers, printed labels, rejected. (Effective July 1, 1992.)
29.51.180	Taking papers into voting booth. (Effective July 1, 1992.)
29.51.190	Official ballots—Vote only once—Incorrectly marked ballots. (Effective July 1, 1992.)
29.51.220	Repealed. (Effective July 1, 1992.)
29.51.221	Refusing to leave voting booth—Penalty. (Effective July 1, 1992.)
29.51.240	Polls open continuously—Announcement of closing. (Effective July 1, 1992.)
29.51.250	Voters in polling place at closing time. (Effective July 1, 1992.)
29.51.260	Repealed. (Effective July 1, 1992.)

**29.51.010 Interference with voter prohibited. (Effective July 1, 1992.)** No person may interfere with a voter in any way within the polling place. This does not prevent the voter from receiving assistance in preparing his or her ballot as provided in RCW 29.51.200. [1990 c 59 § 39; 1965 c 9 § 29.51.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.020 Acts prohibited in vicinity of polling place—Prohibited practices as to ballots—Penalty. (Effective July 1, 1992.)** (1) On the day of any primary or general or special election, no person may, within a polling place, or in any public area within three hundred feet of any entrance to such polling place:

(a) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;

(b) Circulate cards or handbills of any kind;

(c) Solicit signatures to any kind of petition; or

(d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

(3) No person may:

(a) Except as provided in RCW 29.54.037, remove any ballot from the polling place before the closing of the polls; or

(b) Solicit any voter to show his or her ballot.

(4) No person other than an inspector or judge of election may receive from any voter a voted ballot or deliver a blank ballot to such elector.

(5) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution. [1991 c 81 § 20; 1990 c 59 § 75; 1984 c 35 § 1; 1983 1st ex.s. c 33 § 1; 1965 c 9 § 29.51.020. Prior: (i) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. (ii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.050 Issuing ballot to voter—Challenge. (Effective July 1, 1992.)** A voter desiring to vote shall give his or her name to the precinct election officer who has the precinct list of registered voters. This officer shall announce the name to the precinct election officer who has the copy of the poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter shall be issued a ballot or permitted to enter a voting booth or to operate a voting device. The number of the ballot or the voter shall be recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29.10.125 and 29.10.127 apply to that voter. [1990 c 59 § 40; 1965 c 9 § 29.51.050. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (ii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.060 Signature required to vote—Procedure if voter unable to sign name.** (Effective July 1, 1992.) If any person appears to vote at any primary or election as a registered voter in the jurisdiction where the primary or election is being held, the precinct election officers shall require the voter to sign his or her name and current address subject to penalties of perjury in one of the precinct lists of registered voters. If the person registered using a mark or can no longer sign his or her name, the election officers shall require the person offering to vote to be identified by another registered voter.

As soon as it is determined that the person is qualified to vote, one of the precinct election officers shall enter the voter's name in a second poll book. [1990 c 59 § 41; 1971 ex.s. c 202 § 41; 1967 ex.s. c 109 § 9; 1965 ex.s. c 156 § 5; 1965 c 9 § 29.51.060. Prior: 1933 c 1 § 24; RRS § 5114–24.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Forms, secretary of state to design—Availability to public:** RCW 29.10.150.

**Poll books—As public records—Copies furnished, uses restricted:** RCW 29.04.100.

**29.51.070 Record of participation.** (Effective July 1, 1992.) As each voter casts his or her vote, the precinct election officers shall insert in the poll books or precinct list of registered voters opposite that voter's name, a notation to credit the voter with having participated in that primary or election. [1990 c 59 § 42; 1971 ex.s. c 202 § 42; 1965 c 9 § 29.51.070. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (ii) 1933 c 1 § 25; RRS § 5114–25. (iii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.080 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.100 Casting vote.** (Effective July 1, 1992.) On signing the precinct list of registered voters or being issued a ballot, the voter shall, without leaving the polling place, proceed to one of the voting booths or voting devices to cast his or her vote. If the voter was issued a ballot, he or she shall remove the number from the ballot, place the ballot in the ballot box, and return the number to the precinct election officers or shall deliver it to the precinct election officers who shall remove the number from the ballot and place the ballot in the ballot box. [1990 c 59 § 43; 1988 c 181 § 4; 1965 ex.s. c 101 § 15; 1965 c 9 § 29.51.100. Prior: (i) 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947 § 5288, part. (ii) 1889 p 410 § 24, part; RRS § 5289, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.110 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.120 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.130 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.140 Mechanical voting devices—When all voters do not vote on all offices.** (Effective July 1, 1992.) In primaries or elections where a voter has the right to vote only on certain offices and measures, a precinct election officer shall set the mechanical voting device so that the voter can only vote on those offices and measures or direct the voter to a voting device where the ballot contains the appropriate offices and measures. [1990 c 59 § 44; 1965 c 9 § 29.51.140. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.150 Voting devices—Periodic examination.** (Effective July 1, 1992.) The precinct election officers shall periodically examine the voting devices to determine if they have been tampered with. [1990 c 59 § 45; 1965 c 9 § 29.51.150. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.160 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.175 Votes by stickers, printed labels, rejected.** (Effective July 1, 1992.) Votes cast by stickers or printed labels are not valid for any purpose and shall be rejected. Votes cast by sticker or label shall not affect the validity of other offices or issues on the voter's ballot. [1990 c 59 § 46; 1965 ex.s. c 101 § 16.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.180 Taking papers into voting booth.** (Effective July 1, 1992.) Any voter may take into the voting booth or voting device any printed or written material to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove the material when he or she leaves the polls. [1990 c 59 § 47; 1965 c 9 § 29.51.180. Prior: 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.190 Official ballots—Vote only once—Incorrectly marked ballots.** (Effective July 1, 1992.) No

ballots may be used in any polling place other than those prepared by the county auditor. No voter is entitled to vote more than once at a primary or a general or special election, except that if a voter incorrectly marks a ballot, he or she may return it and be issued a new ballot. The precinct election officers shall void the incorrectly marked ballot and return it to the county auditor. [1990 c 59 § 48; 1965 c 9 § 29.51.190. Prior: (i) 1889 p 410 § 25; RRS § 5290. (ii) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part. (iii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (iv) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (v) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.220 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.51.221 Refusing to leave voting booth—Penalty. (Effective July 1, 1992.)** Deliberately impeding other voters from casting their votes by refusing to leave a voting booth or voting device is a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. The precinct election officers may provide assistance in the manner provided by RCW 29.51.200 to any voter who requests it. [1990 c 59 § 49.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.51.240 Polls open continuously—Announcement of closing. (Effective July 1, 1992.)** The polls for a precinct shall remain open continuously until the time specified under RCW 29.13.080. At that time, the precinct election officers shall announce that the polls for that precinct are closed. [1990 c 59 § 50; 1965 c 9 § 29.51-.240. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Opening and closing polls: RCW 29.13.080.*

**29.51.250 Voters in polling place at closing time. (Effective July 1, 1992.)** If at the time of closing the polls, there are any voters in the polling place who have not voted, they shall be allowed to vote after the polls have been closed. [1990 c 59 § 51; 1965 c 9 § 29.51.250. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Opening and closing polls: RCW 29.13.080.*

**29.51.260 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 29.54

### POLLING PLACE REGULATIONS DURING VOTING HOURS AND AFTER CLOSING

#### Sections

- 29.54.010 Unused ballots. (Effective July 1, 1992.)
- 29.54.015 Duties of election officers immediately upon closing. (Effective July 1, 1992.)
- 29.54.018 Tabulation of paper ballots before close of polls. (Effective July 1, 1992.)
- 29.54.020 Repealed. (Effective July 1, 1992.)
- 29.54.025 Counting center, direction and observation of proceedings—Manual count of random precinct. (Effective July 1, 1992.)
- 29.54.030 Repealed. (Effective July 1, 1992.)
- 29.54.035 Recodified as RCW 29.85.225. (Effective July 1, 1992.)
- 29.54.037 Ballot pick up, delivery, and transportation. (Effective July 1, 1992.)
- 29.54.040 Repealed. (Effective July 1, 1992.)
- 29.54.042 Tabulation continuous. (Effective July 1, 1992.)
- 29.54.043 Repealed. (Effective July 1, 1992.)
- 29.54.045 Repealed. (Effective July 1, 1992.)
- 29.54.050 Rejection of ballots or parts—Write-in votes. (Effective July 1, 1992.)
- 29.54.060 Questions on legality of ballot—Preservation and return. (Effective July 1, 1992.)
- 29.54.070 Repealed. (Effective July 1, 1992.)
- 29.54.075 Ballot containers, sealing, opening. (Effective July 1, 1992.)
- 29.54.080 Repealed. (Effective July 1, 1992.)
- 29.54.085 Counting ballots—Official returns. (Effective July 1, 1992.)
- 29.54.090 Repealed. (Effective July 1, 1992.)
- 29.54.100 Repealed. (Effective July 1, 1992.)
- 29.54.105 Returns, precinct and cumulative—Delivery to canvassing board. (Effective July 1, 1992.)
- 29.54.110 Repealed. (Effective July 1, 1992.)
- 29.54.120 Repealed. (Effective July 1, 1992.)
- 29.54.121 Sealing of voting devices—Exceptions. (Effective July 1, 1992.)
- 29.54.130 Repealed. (Effective July 1, 1992.)
- 29.54.140 Repealed. (Effective July 1, 1992.)
- 29.54.170 Voting systems—Maintenance of documents. (Effective July 1, 1992.)

**29.54.010 Unused ballots. (Effective July 1, 1992.)** At each precinct immediately after the last qualified voter has cast his or her vote, the precinct election officers shall identify and seal all unused ballots for that precinct and seal them in a container to be returned to the county auditor. [1990 c 59 § 52; 1977 ex.s. c 361 § 84; 1965 ex.s. c 101 § 6; 1965 c 9 § 29.54.010. Prior: 1893 c 91 § 2; RRS § 5332.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.015 Duties of election officers immediately upon closing. (Effective July 1, 1992.)** Immediately after the close of the polls and the completion of voting, the precinct election officers shall count the number of voted ballots and make a record of any discrepancy between this number and the number of voters who signed the poll book for that precinct or polling place, complete the certifications in the poll book, prepare the ballots for transfer to the counting center if necessary, and seal the voting devices. [1990 c 59 § 53.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.018 Tabulation of paper ballots before close of polls.** (Effective July 1, 1992.) (1) Paper ballots may be tabulated at the precinct polling place before the closing of the polls under rules adopted by the secretary of state. The tabulation of ballots, paper or otherwise, shall be open to the public, but no persons except those employed and authorized by the county auditor may touch a ballot card or ballot container or operate vote tallying equipment.

(2) The results of the tabulation of paper ballots at the polls shall be delivered to the county auditor as soon as the tabulation is complete. [1990 c 59 § 54.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.020 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.025 Counting center, direction and observation of proceedings—Manual count of random precinct.** (Effective July 1, 1992.) (1) The counting center in a county using voting systems shall be under the direction of the county auditor and shall be observed by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings shall be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container or operate a vote tallying system.

(2) The political party observers, upon mutual agreement, may request that a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct shall then be counted by the vote tallying system, and this result shall be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election. [1990 c 59 § 30; 1977 ex.s. c 361 § 71. Formerly RCW 29.34.153.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.030 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.035 Recodified as RCW 29.85.225.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.037 Ballot pick up, delivery, and transportation.** (Effective July 1, 1992.) (1) At the direction of

the county auditor, a team or teams composed of a representative of each major political party shall stop at designated polling places and pick up the sealed containers of voted ballots for delivery to the counting center. There may be more than one delivery from each polling place. Two precinct election officials, one representing each major political party, shall seal the voted ballots in containers furnished by the county auditor and properly identified with his or her address with uniquely prenumbered seals.

(2) At the counting center or the collection stations where the sealed ballot containers are delivered by the designated representatives of the major political parties, the county auditor or a designated representative of the county auditor shall receive the sealed ballot containers, record the time, date, precinct name or number, and seal number of each ballot container. [1990 c 59 § 31; 1977 ex.s. c 361 § 72. Formerly RCW 29.34.157.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.040 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.042 Tabulation continuous.** (Effective July 1, 1992.) Except as provided by rule under RCW 29.04.210, on the day of the primary or election, the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all of the ballots cast at the polls at that primary or election have been tabulated. [1990 c 59 § 58.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.043 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.045 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.050 Rejection of ballots or parts—Write-in votes.** (Effective July 1, 1992.) A ballot is invalid and no votes on that ballot may be counted if it is found folded together with another ballot; or, except for an absentee ballot, it is marked so as to identify the voter.

Those parts of a ballot are invalid and no votes may be counted for those issues or offices where more votes are cast for the office or issue than are permitted by law; write-in votes do not contain all of the information required under RCW 29.51.170; or that issue or office is not marked with sufficient definiteness to determine the voter's choice or intention. No write-in vote may be rejected due to a variation in the form of the name if the election board or the canvassing board can determine the issue for or against which or the person and the office

for which the voter intended to vote. [1990 c 59 § 56; 1977 ex.s. c 361 § 88; 1973 1st ex.s. c 121 § 2; 1965 ex.s. c 101 § 11; 1965 c 9 § 29.54.050. Prior: (i) Code 1881 § 3091; 1865 p 38 § 2; RRS § 5336. (ii) 1895 c 156 § 10; 1889 p 411 § 29; RRS § 5294. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (iv) 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.060 Questions on legality of ballot—Preservation and return. (Effective July 1, 1992.)** Whenever the precinct election officers or the counting center personnel have a question about the validity of a ballot or the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise record of the facts in question or dispute. These ballots shall be delivered to the canvassing board for processing. All ballots shall be preserved in the same manner as valid ballots for that primary or election. [1990 c 59 § 57; 1977 ex.s. c 361 § 89; 1965 c 9 § 29.54.060. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.070 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.075 Ballot containers, sealing, opening. (Effective July 1, 1992.)** Immediately after their tabulation, all ballots shall be sealed in containers that identify the primary or election and be retained for at least sixty days. The containers may only be opened by the canvassing board as part of the canvass or to conduct recounts or by order of the superior court in a contest or election dispute. If the canvassing board opens a ballot container, it shall make a full record of the additional tabulation or examination made of the ballots. This record shall be added to any other record of the canvassing process in that county. [1990 c 59 § 59.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.080 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.085 Counting ballots—Official returns. (Effective July 1, 1992.)** (1) The ballots picked up from the precincts during the polling hours may be counted before the polls have closed. Election returns from the count of these ballots must be held in secrecy until the polls have been closed as provided by RCW 29.54.018.

(2) Upon breaking the seals and opening the ballot containers from the precincts, all voted ballots shall be

manually inspected for damage, write-in votes, and incorrect or incomplete marks. If it is found that any ballot is damaged so that it cannot properly be counted by the vote tallying system, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All damaged ballots shall be kept by the county auditor until sixty days after the primary or election.

(3) The returns produced by the vote tallying system, to which have been added the counts of questioned ballots, write-in votes, and absentee votes, constitute the official returns of the primary or election in that county. [1990 c 59 § 33; 1977 ex.s. c 361 § 74. Formerly RCW 29.34.167.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.54.090 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.100 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.105 Returns, precinct and cumulative—Delivery to canvassing board. (Effective July 1, 1992.)** The county auditor shall produce cumulative and precinct returns for each primary and election and deliver them to the canvassing board for verification and certification. The precinct and cumulative returns of any primary or election are public records under chapter 42.17 RCW. [1990 c 59 § 60.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.110 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.120 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.121 Sealing of voting devices—Exceptions. (Effective July 1, 1992.)** Except for reopening to make a recanvass, the registering mechanism of each mechanical voting device used in any primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county. Except where provided by a rule adopted under RCW 29.04.210, voting devices used in a primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county. [1990 c 59 § 24; 1965 c 9 § 29.33.230. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part. Formerly RCW 29.33.230.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.54.130 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.140 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.54.170 Voting systems—Maintenance of documents.** (Effective July 1, 1992.) In counties using voting systems, the county auditor shall maintain the following documents for at least sixty days after the primary or election:

- (1) Sample ballot formats together with a record of the format or formats assigned to each precinct;
- (2) All programming material related to the control of the vote tallying system for that primary or election; and
- (3) All test materials used to verify the accuracy of the tabulating equipment as required by RCW 29.33.350. [1990 c 59 § 61; 1977 ex.s. c 361 § 94.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

## Chapter 29.62

### CANVASSING THE RETURNS

#### Sections

29.62.010	Rules for canvassing—Statement of returns—Resolving ties. (Effective July 1, 1992.)
29.62.040	County canvassing board—Canvassing procedure—Penalty. (Effective July 1, 1992.)
29.62.050	Recanvass—Generally. (Effective July 1, 1992.)
29.62.090	Abstract by election officer—Transmittal to secretary of state.

**29.62.010 Rules for canvassing—Statement of returns—Resolving ties.** (Effective July 1, 1992.) Every canvassing board or officer responsible for canvassing and certifying the returns of any primary or election shall:

- (1) Adopt administrative rules to facilitate and govern the canvassing process in that jurisdiction;
- (2) For each primary and election, prepare and sign a statement of the returns for each office, candidate, and issue voted on in that jurisdiction;
- (3) If, at a partisan primary, two or more candidates of the same party receive the greatest, and identical, number of votes for an office, resolve the tie vote by lot;
- (4) If, at a nonpartisan or judicial primary, two or more candidates receive the second greatest, and identical, number of votes for that office or position, resolve the tie vote by lot. [1990 c 59 § 62; 1965 c 9 § 29.62-.010. Prior: 1961 c 130 § 10; prior: (i) 1907 c 209 § 24, part; RRS § 5201, part. (ii) Code 1881 § 3096, part; 1866 p 6 § 2, part; 1865 p 39 § 7, part; RRS § 5343, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.62.040 County canvassing board—Canvassing procedure—Penalty.** (Effective July 1, 1992.) Before canvassing the returns of a primary or election, the chairman of the county legislative authority shall administer an oath to the county auditor attesting to the authenticity of the information presented to the canvassing board. This oath must be signed by the county auditor and filed with the returns of the primary or election.

The county canvassing board shall proceed to verify the results from the precincts and the absentee ballots. The board shall execute a certificate of the results of the primary or election signed by all members of the board. Failure to certify the returns, if they can be ascertained with reasonable certainty, is a misdemeanor. [1990 c 59 § 63; 1965 c 9 § 29.62.040. Prior: 1957 c 195 § 17; prior: (i) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part. (ii) 1893 c 112 § 2; RRS § 5342. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**29.62.050 Recanvass—Generally.** (Effective July 1, 1992.) Whenever the canvassing board finds that there is an apparent discrepancy or an inconsistency in the returns of a primary or election, the board may recanvass the ballots or voting devices in any precincts of the county. The canvassing board shall correct any error and document the correction of any error that it finds. [1990 c 59 § 64; 1965 c 9 § 29.62.050. Prior: 1951 c 193 § 1; 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Voting systems:** Chapter 29.33 RCW.

**29.62.090 Abstract by election officer—Transmittal to secretary of state.** (1) Immediately after the official results of a state primary or general election in a county are ascertained, the county auditor or other election officer shall make an abstract of the number of registered voters in each precinct and of all the votes cast in the county at such state primary or general election for and against state measures and for each candidate for federal, state, and legislative office or for any other office which the secretary of state is required by law to canvass. The abstract shall be entered on blanks furnished by the secretary of state or on compatible computer printouts approved by the secretary of state, and transmitted to the secretary of state no later than the next business day following the certification by the county canvassing board.

(2) After each general election in an even-numbered year, the county auditor or other election officer shall provide to the secretary of state a report of the number of absentee ballots cast in each precinct for and against state measures and for each candidate for federal, state, and legislative office or for any other office which the secretary of state is required by law to canvass. The report may be included in the abstract required by this

section or may be transmitted to the secretary of state separately, but in no event later than March 31 of the year following the election. Absentee ballot results may be incorporated into votes cast at the polls for each precinct or may be reported separately on a precinct-by-precinct basis.

(3) If absentee ballot results are not incorporated into votes cast at the polls, the county auditor or other election official may aggregate results from more than one precinct if the auditor, pursuant to rules adopted by the secretary of state, finds that reporting a single precinct's absentee ballot results would jeopardize the secrecy of a person's ballot. To the extent practicable, precincts for which absentee results are aggregated shall be contiguous. [1990 c 262 § 1; 1977 ex.s. c 361 § 96; 1965 c 9 § 29.62.090. Prior: (i) 1895 c 156 § 12; Code 1881 § 3101; 1865 p 40 § 12; RRS § 5346. (ii) Code 1881 § 3103; 1865 p 41 § 14; RRS § 5348.]

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

## Chapter 29.64

### STATUTORY RECOUNT PROCEEDINGS

#### Sections

29.64.015	Mandatory recount.
29.64.020	Deposit of fees—Notice of time and place of recount—Public proceeding. (Effective July 1, 1992.)
29.64.030	Recounting the votes—Observers—Request to stop. (Effective July 1, 1992.)
29.64.040	Amended abstracts. (Effective July 1, 1992.)
29.64.050	Repealed.
29.64.051	Limitation on recounts.
29.64.060	Expenses of recount—Charges. (Effective July 1, 1992.)
29.64.070	Rules. (Effective July 1, 1992.)

**29.64.015 Mandatory recount.** (1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is not more than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position which appears on the ballot in more than one county, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b) Whenever the difference in the number of votes cast for such candidates is less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29.64.020, 29.64.030, and 29.64.040. No cost of a mandatory recount may be

charged to any candidate. [1991 c 90 § 2; 1987 c 54 § 4; 1965 c 9 § 29.64.015. Prior: 1963 ex.s. c 25 § 2.]

**Finding, purpose—1991 c 90:** "The legislature finds that it is in the public interest to determine the winner of close contests for elective offices as expeditiously and as accurately as possible. It is the purpose of this act to provide procedures which promote the prompt and accurate recounting of votes for elective offices and which provide closure to the recount process." [1991 c 90 § 1.]

**29.64.020 Deposit of fees—Notice of time and place of recount—Public proceeding.** (Effective July 1, 1992.) An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. These charges shall be determined by the county canvassing board or boards under RCW 29.64.060.

The county canvassing board shall determine a time and a place or places at which the recount will be conducted. This time shall be less than five days after the day upon which: The application was filed with the board; the request for a recount or directive ordering a recount was received by the board from the secretary of state; or the returns are certified which indicate that a recount is required under RCW 29.64.015 for an issue or office voted upon only within the county. The county auditor shall mail a notice of the time and place of the recount to the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office. The notice shall be mailed by certified mail not less than two days before the date of the recount. Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount. [1991 c 81 § 36; 1987 c 54 § 5; 1977 ex.s. c 361 § 99; 1965 c 9 § 29.64.020. Prior: 1961 c 50 § 2; 1955 c 215 § 2.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**Effective date—Severability—1977 ex.s. c 361:** See notes following RCW 29.01.006.

**29.64.030 Recounting the votes—Observers—Request to stop.** (Effective July 1, 1992.) (1) At the time and place established for a recount, the canvassing board or its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount the votes for the offices or issues for which the recount has been ordered. Ballots shall be handled only by the members of the canvassing board or their duly authorized representatives. Witnesses shall be permitted to observe the ballots and the process

of tabulating the votes, but they shall not be permitted to handle the ballots. The canvassing board shall not permit the tabulation of votes for any nomination, election, or issue other than the ones for which a recount was applied for or required.

At the time and place established for a canvass of the votes cast on voting devices that do not provide an individual record of the choices of each voter, the canvassing board or its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the voting devices to be rechecked, and shall verify the votes cast for the offices and issues for which the recount was ordered. Witnesses shall be permitted to watch the recheck of the voting devices. The canvassing board shall not permit the rechecking of votes for any nomination, election, or issue other than the ones for which a recount was applied for or required.

(2) At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount.

If the canvassing board finds that the results of the votes in the precincts recounted, if substituted for the results of the votes in those precincts as shown in the certified abstract of the votes would not change the result for that office or issue, it shall not recount the ballots of the precincts listed in the application for recount which have not been recounted before the request to stop the recount. The canvassing board shall attach a copy of the request to stop the recount to the partial returns of the recount.

The recount may be observed by persons representing the candidates affected by the recount or the persons representing both sides of an issue that is being recounted. The observers may not make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots unless authorized by the superior court. The secretary of state or county auditor may limit the number of observers to not less than two on each side if, in his or her opinion, a greater number would cause undue delay or disruption of the recount process. [1991 c 81 § 37; 1990 c 59 § 65; 1965 c 9 § 29.64.030. Prior: 1961 c 50 § 3; 1955 c 215 § 3.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**29.64.040 Amended abstracts.** (Effective July 1, 1992.) Upon completion of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts shall be transmitted to the same officers who received the abstract on which the recount was based.

If the nomination, election, or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the nomination, election, or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election. [1990 c 59 § 66; 1965 c 9 § 29.64.040. Prior: 1955 c 215 § 4.]

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**29.64.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.64.051 Limitation on recounts.** After being counted, the votes cast in any single precinct may not be recounted more than twice. [1991 c 90 § 3.]

**Finding, purpose**—1991 c 90: See note following RCW 29.64.015.

**29.64.060 Expenses of recount—Charges.** (Effective July 1, 1992.) The expenses for conducting a recount of votes shall be fixed by the canvassing board.

The cost of the recount shall be deducted from the amount deposited by the applicant for the recount at the time of filing the request for the recount, and the balance shall be returned to the applicant. If the costs of the recount exceed the deposit, the applicant shall pay the difference. No charges may be deducted by the canvassing board from the deposit for a recount if the recount changes the result of the nomination or election for which the recount was ordered. [1990 c 59 § 68; 1977 ex.s. c 361 § 100; 1965 c 9 § 29.64.060. Prior: 1955 c 215 § 6.]

**Intent**—**Effective date**—1990 c 59: See notes following RCW 29.01.006.

**Effective date**—**Severability**—1977 ex.s. c 361: See notes following RCW 29.01.006.

**29.64.070 Rules.** (Effective July 1, 1992.) The secretary of state, as chief election officer, shall adopt rules in accordance with chapter 34.05 RCW to facilitate and clarify procedures contained in this chapter. [1991 c 81 § 38; 1965 c 9 § 29.64.070. Prior: 1955 c 215 § 7.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

## Chapter 29.68

### UNITED STATES CONGRESSIONAL ELECTIONS

#### Sections

29.68.080 Vacancy in congress—Special election. (Effective July 1, 1992.)

**29.68.080 Vacancy in congress—Special election.** (Effective July 1, 1992.) (1) Whenever a vacancy occurs in the office of United States representative or United States senator from this state or any congressional district of this state, the governor shall order a special election to fill the vacancy.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary and special vacancy elections shall be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29.15.020 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary at which candidates are to be nominated. The names of candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary and special vacancy election to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

(6) As used in this chapter, "county" means, in the case of a vacancy in the office of United States senator, any or all of the counties in the state and, in the case of a vacancy in the office of United States representative, only those counties wholly or partly within the congressional district in which the vacancy has occurred. [1990 c 59 § 105; 1985 c 45 § 4; 1973 2nd ex.s. c 36 § 3; 1965 c 9 § 29.68.080. Prior: 1915 c 60 § 1; 1909 ex.s. c 25 § 1; RRS § 3799.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Legislative intent—1985 c 45:** See note following RCW 29.13.047. *Vacancies in public office, how caused:* RCW 42.12.010.

**Chapter 29.71**

**UNITED STATES PRESIDENTIAL ELECTORS**

Sections

29.71.020 Nomination—Pledge by electors—What names on ballots—How counted. (Effective July 1, 1992.)

**29.71.020 Nomination—Pledge by electors—What names on ballots—How counted.** (Effective July 1, 1992.) In the year in which a presidential election is held, each major political party and each minor political party or independent candidate convention held under chapter 29.24 RCW that nominates candidates for president and vice-president of the United States shall nominate presidential electors for this state. The party or convention shall file with the secretary of state a certificate signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. Each presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party. The names of presidential electors shall not appear on the ballots. The votes cast for candidates for president and vice-president of each political party shall be counted for the candidates for presidential electors of that political party. [1990 c 59 § 69; 1977 ex.s. c 238 § 1; 1965 c 9 § 29.71.020. Prior: 1935 c 20 § 1; RRS § 5138-1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Chapter 29.74**

**UNITED STATES CONSTITUTIONAL AMENDMENT CONVENTIONS**

Sections

29.74.080 Election of convention delegates—Ballots. (Effective July 1, 1992.)

**29.74.080 Election of convention delegates—Ballots.** (Effective July 1, 1992.) The issue shall be identified as, "Delegates to a convention for ratification or rejection of a proposed amendment to the United States Constitution, relating \_\_\_\_\_ (stating briefly the substance of amendment proposed for adoption or rejection)." The names of all candidates who have filed in a district shall be printed on the ballots for that district in two separate groups under the headings, "For the amendment" and "Against the amendment." The names of the candidates in each group shall be printed in alphabetical order. [1990 c 59 § 70; 1965 c 9 § 29.74.080. Prior: 1933 c 181 § 4, part; RRS § 5249-4, part.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

*Ballots:* Chapter 29.30 RCW.

**Chapter 29.82**

**THE RECALL**

Sections

29.82.060 Number of signatures required.  
29.82.130 Conduct of election—Contents of ballot. (Effective July 1, 1992.)

**29.82.060 Number of signatures required.** When the person, committee, or organization demanding the recall

of a public officer has secured sufficient signatures upon the recall petition the person, committee, or organization may submit the same to the officer with whom the charge was filed for filing in his or her office. The number of signatures required shall be as follows:

(1) In the case of a state officer, an officer of a city of the first class, a member of a school board in a city of the first class, or a county officer of a county with a population of forty thousand or more—signatures of legal voters equal to twenty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election.

(2) In the case of an officer of any political subdivision, city, town, township, precinct, or school district other than those mentioned in subsection (1) of this section, and in the case of a state senator or representative—signatures of legal voters equal to thirty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election. [1991 c 363 § 36; 1965 c 9 § 29.82.060. Prior: 1913 c 146 § 8, part; RRS § 5357, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Recall of elective officers—Percentages required: State Constitution Art. 1 § 34 (Amendment 8).**

**29.82.130 Conduct of election—Contents of ballot. (Effective July 1, 1992.)** The special election for the recall of an officer shall be conducted in the same manner as a special election for that jurisdiction. The county auditor shall conduct the recall election. The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge and the officer's response to the charge if one has been filed. [1990 c 59 § 71; 1980 c 42 § 2; 1965 c 9 § 29.82.130. Prior: 1913 c 146 § 11; RRS § 5360. See also RCW 29.48.040.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

## Chapter 29.85 CRIMES AND PENALTIES

Sections	
29.85.101	Ballots—Removing from polling place. (Effective July 1, 1992.)
29.85.020	Unauthorized examination of ballots, election materials—Revealing information. (Effective July 1, 1992.)
29.85.030	Repealed. (Effective July 1, 1992.)
29.85.040	Ballots—Unlawful appropriation, printing, or distribution. (Effective July 1, 1992.)
29.85.050	Repealed. (Effective July 1, 1992.)
29.85.051	Deceptive, incorrect vote recording. (Effective July 1, 1992.)
29.85.060	Hindering or bribing voter. (Effective July 1, 1992.)
29.85.070	Influencing voter to withhold vote. (Effective July 1, 1992.)
29.85.080	Repealed. (Effective July 1, 1992.)
29.85.090	Solicitation of bribe by voter. (Effective July 1, 1992.)
29.85.100	Certificates of nomination and election—Declarations of candidacy—Petitions of nomination—Frauds and falsehoods. (Effective July 1, 1992.)

29.85.105	Repealed. (Effective July 1, 1992.)
29.85.110	Tampering with polling place materials. (Effective July 1, 1992.)
29.85.120	Repealed. (Effective July 1, 1992.)
29.85.130	Repealed. (Effective July 1, 1992.)
29.85.140	Repealed. (Effective July 1, 1992.)
29.85.160	Repealed. (Effective July 1, 1992.)
29.85.170	Officers—Violations generally. (Effective July 1, 1992.)
29.85.180	Repealed. (Effective July 1, 1992.)
29.85.190	Recodified as RCW 29.07.400. (Effective July 1, 1992.)
29.85.200	Recodified as RCW 29.07.410. (Effective July 1, 1992.)
29.85.210	Repeaters. (Effective July 1, 1992.)
29.85.220	Repeaters—Unqualified persons—Officers conniving with. (Effective July 1, 1992.)
29.85.225	Divulging ballot count. (Effective July 1, 1992.)
29.85.230	Returns and posted copy of results—Tampering with. (Effective July 1, 1992.)
29.85.240	Unqualified persons voting. (Effective July 1, 1992.)
29.85.260	Voting machines, devices—Tampering with—Extra keys. (Effective July 1, 1992.)
29.85.275	Political advertising, removing or defacing. (Effective July 1, 1992.)

**Refusing to leave voting booth—Penalty: RCW 29.51.221.**

**29.85.010 Ballots—Removing from polling place. (Effective July 1, 1992.)** Any person who, without lawful authority, removes a ballot from a polling place is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 1; 1965 c 9 § 29.85.010. Prior: 1893 c 115 § 2; RRS § 5396.]

**Effective date—1991 c 81:** "This act shall take effect July 1, 1992." [1991 c 81 § 42.]

**29.85.020 Unauthorized examination of ballots, election materials—Revealing information. (Effective July 1, 1992.)** (1) It is a gross misdemeanor for a person to examine, or assist another to examine, any voter record, ballot, or any other state or local government official election material if the person, without lawful authority, conducts the examination:

(a) For the purpose of identifying the name of a voter and how the voter voted; or

(b) For the purpose of determining how a voter, whose name is known to the person, voted; or

(c) For the purpose of identifying the name of the voter who voted in a manner known to the person.

(2) Any person who reveals to another information which the person ascertained in violation of subsection (1) of this section is guilty of a gross misdemeanor.

(3) A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 2; 1965 c 9 § 29.85.020. Prior: 1911 c 89 § 1, part; Code 1881 § 906; 1873 p 205 § 105; 1854 p 93 § 96; RRS § 5387.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**29.85.030 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.040 Ballots—Unlawful appropriation, printing, or distribution. (Effective July 1, 1992.)** Any person who is retained or employed by any officer authorized

by the laws of this state to procure the printing of any official ballot or who is engaged in printing official ballots is guilty of a gross misdemeanor if the person knowingly:

(1) Appropriates any official ballot to himself or herself; or

(2) Gives or delivers any official ballot to or permits any official ballot to be taken by any person other than the officer authorized by law to receive it; or

(3) Prints or causes to be printed any official ballot: (a) In any other form than that prescribed by law or as directed by the officer authorized to procure the printing thereof; or (b) with any other names thereon or with the names spelled otherwise than as directed by such officer, or the names or printing thereon arranged in any other way than that authorized and directed by law.

A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 3; 1965 c 9 § 29.85.040. Prior: 1893 c 115 § 1; RRS § 5395.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.050 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.051 Deceptive, incorrect vote recording. (Effective July 1, 1992.)** A person is guilty of a gross misdemeanor who knowingly:

(1) Deceives any voter in recording his or her vote by providing incorrect or misleading recording information or by providing faulty election equipment or records; or

(2) Records the vote of any voter in a manner other than as designated by the voter.

Such a gross misdemeanor is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 4.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.060 Hindering or bribing voter. (Effective July 1, 1992.)** Any person who uses menace, force, threat, or any unlawful means towards any voter to hinder or deter such a voter from voting, or directly or indirectly offers any bribe, reward, or any thing of value to a voter in exchange for the voter's vote for or against any person or ballot measure, or authorizes any person to do so, is guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 5; 1965 c 9 § 29.85.060. Prior: (i) 1911 c 89 § 1, part; Code 1881 § 904; 1873 p 204 § 103; 1854 p 93 § 94; RRS § 5386. (ii) 1911 c 89 § 1, part; 1901 c 142 § 1; Code 1881 § 909; 1873 p 205 § 106; 1865 p 50 § 1; 1854 p 93 § 97; RRS § 5388.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.070 Influencing voter to withhold vote. (Effective July 1, 1992.)** Any person who in any way, directly or indirectly, by menace or unlawful means, attempts to influence any person in refusing to give his or her vote in any primary or special or general election is guilty of a gross misdemeanor punishable to the same

extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 6; 1965 c 9 § 29.85.070. Prior: Code 1881 § 3140; RRS § 5389.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.080 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.090 Solicitation of bribe by voter. (Effective July 1, 1992.)** Any person who solicits, requests, or demands, directly or indirectly, any reward or thing of value or the promise thereof in exchange for his or her vote or in exchange for the vote of any other person for or against any candidate or for or against any ballot measure to be voted upon at a primary or special or general election is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 7; 1965 c 9 § 29.85.090. Prior: 1907 c 209 § 32; RRS § 5207.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.100 Certificates of nomination and election—Declarations of candidacy—Petitions of nomination—Frauds and falsehoods. (Effective July 1, 1992.)** Every person who:

(1) Knowingly and falsely issues a certificate of nomination or election; or

(2) Knowingly provides false information on a certificate which must be filed with an elections officer under chapter 29.24 RCW; or

(3) Knowingly provides false information on his or her declaration of candidacy or petition of nomination; or

(4) Conceals or fraudulently defaces or destroys a certificate which has been filed with an elections officer under chapter 29.24 RCW or a declaration of candidacy or petition of nomination which has been filed with an elections officer, or any part of such a certificate, declaration, or petition, is guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 8; 1965 c 9 § 29.85.100. Prior: 1889 p 411 § 30; RRS § 5295.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.105 Repealed. (Effective July 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.110 Tampering with polling place materials. (Effective July 1, 1992.)** Any person who willfully defaces, removes, or destroys any of the supplies or materials which the person knows are intended both for use in a polling place and for enabling a voter to prepare his or her ballot is guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 9; 1965 c 9 § 29.85.110. Prior: 1889 p 412 § 31; RRS § 5296. FORMER PART OF SECTION: 1935 c 108 § 3, part; RRS § 5339-3, part, now codified, as reenacted, in RCW 29.85.230.]

**Effective date**—1991 c 81: See note following RCW 29.85.010.

**29.85.120 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.130 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.140 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.160 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.170 Officers—Violations generally.** (Effective July 1, 1992.) Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, including primaries, or the provisions of any charter or ordinance of any city or town of this state relating to elections who willfully neglects or refuses to perform such duty, or who, in the performance of such duty, or in his or her official capacity, knowingly or fraudulently violates any of the provisions of law relating to such duty, is guilty of a class C felony punishable under RCW 9A.20.021 and shall forfeit his or her office. [1991 c 81 § 10; 1965 c 9 § 29.85.170. Prior: (i) 1889 p 412 § 32; RRS § 5297. (ii) 1911 c 89 § 1, part; Code 1881 § 912; 1877 p 205 § 2; RRS § 5392.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.85.180 Repealed.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.190 Recodified as RCW 29.07.400.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.200 Recodified as RCW 29.07.410.** (Effective July 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**29.85.210 Repeaters.** (Effective July 1, 1992.) Any person who votes or attempts to vote more than once at any primary or general or special election is guilty of a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 13; 1965 c 9 § 29.85.210. Prior: 1911 c 89 § 1, part; Code 1881 § 903; 1873 p 204 § 102; 1865 p 51 § 5; 1854 p 93 § 93; RRS § 5383.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.85.220 Repeaters—Unqualified persons—Officers conniving with.** (Effective July 1, 1992.) Any precinct election officer who knowingly permits any voter to cast a second vote at any primary or general or special election, or knowingly permits any person not a

qualified voter to vote at any primary or general or special election, is guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 14; 1965 c 9 § 29.85.220. Prior: 1911 c 89 § 1, part; Code 1881 § 911; 1873 p 205 § 108; RRS § 5385.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.85.225 Divulging ballot count.** (Effective July 1, 1992.) (1) In any location in which ballots are counted, no person authorized by law to be present while votes are being counted may divulge any results of the count of the ballots at any time prior to the closing of the polls for that primary or special or general election.

(2) A violation of this section is a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. [1991 c 81 § 15; 1990 c 59 § 55; 1977 ex.s. c 361 § 85; 1965 c 9 § 29.54.035. Prior: 1955 c 148 § 6. Formerly RCW 29.54.035.]

Effective date—1991 c 81: See note following RCW 29.85.010.

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

Divulging returns in voting device precincts: RCW 29.54.085.

**29.85.230 Returns and posted copy of results—Tampering with.** (Effective July 1, 1992.) It shall be a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, for any person to remove or deface the posted copy of the result of votes cast at their precinct or to delay delivery of or change the copy of primary or special or general election returns to be delivered to the proper election officer. [1991 c 81 § 16; 1965 c 9 § 29.85.230. Prior: 1935 c 108 § 3; RRS § 5339-3. Formerly RCW 29.85.110, part.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.85.240 Unqualified persons voting.** (Effective July 1, 1992.) Any person who knows that he or she does not possess the legal qualifications of a voter and who votes at any primary or special or general election authorized by law to be held in this state for any office whatever shall be guilty of a class C felony punishable under RCW 9A.20.021. [1991 c 81 § 17; 1965 c 9 § 29.85.240. Prior: 1911 c 89 § 1, part; Code 1881 § 905; 1873 p 204 § 104; 1865 p 51 § 4; 1854 p 93 § 95; RRS § 5384.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**29.85.260 Voting machines, devices—Tampering with—Extra keys.** (Effective July 1, 1992.) Any person who tampers with or damages or attempts to damage any voting machine or device to be used or being used in a primary or special or general election, or who prevents or attempts to prevent the correct operation of such machine or device, or any unauthorized person who makes or has in his or her possession a key to a voting machine or device to be used or being used in a primary or special or general election, shall be guilty of a class C

felony punishable under RCW 9A.20.021. [1991 c 81 § 18; 1965 c 9 § 29.85.260. Prior: 1913 c 58 § 16; RRS § 5316.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**29.85.275 Political advertising, removing or defacing. (Effective July 1, 1992.)** A person who removes or defaces lawfully placed political advertising including yard signs or billboards without authorization is guilty of a misdemeanor punishable to the same extent as a misdemeanor that is punishable under RCW 9A.20.021. The defacement or removal of each item constitutes a separate violation. [1991 c 81 § 19; 1984 c 216 § 5.]

**Effective date—1991 c 81:** See note following RCW 29.85.010.

**Political advertising**

generally: RCW 42.17.510 through 42.17.540  
rates for candidates: RCW 65.16.095.

## Title 31

### MISCELLANEOUS LOAN AGENCIES

#### Chapters

- 31.04 Consumer loan act.**
- 31.08 Consumer finance act.**
- 31.12 Washington state credit union act.**
- 31.24 Industrial development corporations.**
- 31.35 Agricultural lenders—Loan guaranty program.**
- 31.45 Check cashers and sellers.**

#### Chapter 31.04

#### CONSUMER LOAN ACT

#### Sections

- 31.04.005 Finding—Purpose. (Effective January 1, 1992.)
- 31.04.010 Repealed. (Effective January 1, 1992.)
- 31.04.015 Definitions. (Effective January 1, 1992.)
- 31.04.025 Application of chapter. (Effective January 1, 1992.)
- 31.04.030 Repealed. (Effective January 1, 1992.)
- 31.04.035 License required. (Effective January 1, 1992.)
- 31.04.040 Repealed. (Effective January 1, 1992.)
- 31.04.045 License—Application—Fee—Surety bond. (Effective January 1, 1992.)
- 31.04.050 Repealed. (Effective January 1, 1992.)
- 31.04.055 License—Supervisor's duties. (Effective January 1, 1992.)
- 31.04.060 Repealed. (Effective January 1, 1992.)
- 31.04.065 License—Information contained—Requirement to post. (Effective January 1, 1992.)
- 31.04.070 Repealed. (Effective January 1, 1992.)
- 31.04.075 Licensee—Multiple locations. (Effective January 1, 1992.)
- 31.04.080 Repealed. (Effective January 1, 1992.)
- 31.04.085 Licensee—Fee—Bond—Time of payment. (Effective January 1, 1992.)
- 31.04.090 Repealed. (Effective January 1, 1992.)
- 31.04.093 License—Revocation, surrender, suspension. (Effective January 1, 1992.)
- 31.04.095 Repealed. (Effective January 1, 1992.)
- 31.04.100 Repealed. (Effective January 1, 1992.)
- 31.04.105 Licensee—Powers—Restrictions. (Effective January 1, 1992.)
- 31.04.110 Repealed. (Effective January 1, 1992.)

- 31.04.115 Open-end loan—Requirements—Restrictions—Options. (Effective January 1, 1992.)
- 31.04.120 Repealed. (Effective January 1, 1992.)
- 31.04.125 Loan restrictions—Interest calculations. (Effective January 1, 1992.)
- 31.04.130 Repealed. (Effective January 1, 1992.)
- 31.04.135 Advertisements or promotions. (Effective January 1, 1992.)
- 31.04.140 Repealed. (Effective January 1, 1992.)
- 31.04.145 Examinations—Supervisor's duties—Costs. (Effective January 1, 1992.)
- 31.04.150 Repealed. (Effective January 1, 1992.)
- 31.04.155 Licensee—Recordkeeping—Report requirement. (Effective January 1, 1992.)
- 31.04.160 Repealed. (Effective January 1, 1992.)
- 31.04.165 Supervisor—Broad administrative discretion—Rulemaking. (Effective January 1, 1992.)
- 31.04.175 Violation—Penalty—Gross misdemeanor. (Effective January 1, 1992.)
- 31.04.185 Repealed sections of law—Rules adopted under. (Effective January 1, 1992.)
- 31.04.200 Repealed. (Effective January 1, 1992.)
- 31.04.210 Repealed. (Effective January 1, 1992.)
- 31.04.220 Repealed. (Effective January 1, 1992.)
- 31.04.230 Repealed. (Effective January 1, 1992.)
- 31.04.250 Repealed. (Effective January 1, 1992.)
- 31.04.260 Repealed. (Effective January 1, 1992.)
- 31.04.270 Decodified. (Effective January 1, 1992.)
- 31.04.280 Decodified. (Effective January 1, 1992.)
- 31.04.900 Severability—1991 c 208.
- 31.04.901 Short title.
- 31.04.902 Effective dates, implementation—1991 c 208.

**31.04.005 Finding—Purpose. (Effective January 1, 1992.)** The legislature finds that borrowers who represent a higher than average credit risk are unable to obtain credit except at interest rates higher than permitted under other statutory provisions governing interest rates for loans. Therefore, it is the purpose of this chapter to authorize higher interest rates for certain types of loans, subject to the conditions and limitations contained in this chapter in order to ensure credit availability. [1991 c 208 § 1.]

**31.04.010 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.015 Definitions. (Effective January 1, 1992.)** The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.

(2) "License" means a single license issued under the authority of this chapter with respect to a single place of business.

(3) "Licensee" means a person to whom one or more licenses have been issued.

(4) "Supervisor" means the supervisor of banking of the department of general administration.

(5) "Insurance" means life insurance, disability insurance, property insurance, involuntary unemployment insurance, and such other insurance as may be authorized by the insurance commissioner.

(6) "Add-on method" means the method of precomputing interest payable on a loan whereby the interest to be earned is added to the principal balance and

the total plus any charges allowed under this chapter is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms. The supervisor may adopt by rule a more detailed explanation of the meaning and use of this method.

(7) "Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balances of the principal of the loan outstanding for the time outstanding with each payment applied first to any unpaid penalties, fees, or charges, then to accumulated interest, and the remainder of the payment applied to the unpaid balance of the principal until paid in full. In using such method, interest shall not be payable in advance nor compounded. The supervisor may adopt by rule a more detailed explanation of the meaning and use of this method. [1991 c 208 § 2.]

**31.04.025 Application of chapter.** (Effective January 1, 1992.) This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan including but not restricted to plans having all of the following characteristics:

(1) Where credit cards are issued pursuant to a plan whereby the organization issuing such cards shall be enabled to acquire those certain obligations which its members in good standing incur with those persons with whom the organization has entered into agreements setting forth said plan, and where the obligations are incurred pursuant to such agreements; or whereby the organization issuing such cards shall be enabled to extend credit to its members;

(2) Any fee for such credit cards is designed to cover only the administrative costs of the plan and does not exceed twenty-five dollars per year;

(3) Any charges, discounts, or fees resulting from the acquisition of such charges shall be paid to the organization issuing said credit cards (or to such other organizations as may be authorized by the issuing organization) by the persons, corporations, or associations with whom the organization has entered into such written agreements. [1991 c 208 § 4.]

**31.04.030 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.035 License required.** (Effective January 1, 1992.) No person may engage in the business of making secured or unsecured loans of money, credit, or things in action at interest rates authorized by this chapter without first obtaining and maintaining a license in accordance with this chapter. [1991 c 208 § 3.]

**31.04.040 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.045 License—Application—Fee—Surety bond.** (Effective January 1, 1992.) (1) Application for a license under this chapter must be in writing and in the form prescribed by the supervisor. The application must contain at least the following information:

(a) The name and the business and the residence addresses of the applicant;

(b) If the applicant is a partnership or association, the name of every member;

(c) If the applicant is a corporation, the name of each officer and director;

(d) The street address, county, and municipality where business is to be conducted; and

(e) Such other information as the supervisor may require by rule.

(2) At the time of filing an application for a license under this chapter, each applicant shall pay to the supervisor an investigation fee and the initial year's license fee in an amount determined by rule of the supervisor to be sufficient to cover the supervisor's costs in administering this chapter.

(3) Each applicant shall file and maintain a surety bond, approved by the supervisor, in the penal sum of one hundred thousand dollars, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety shall not exceed the penal sum in the aggregate. The bond shall run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter. In lieu of a surety bond, if the applicant is a Washington business corporation, the applicant may maintain unimpaired capital, surplus, and long-term subordinated debt in an amount that at any time its outstanding promissory notes or other evidences of debt (other than long-term subordinated debt) in an aggregate sum do not exceed three times the aggregate amount of its unimpaired capital, surplus, and long-term subordinated debt. The supervisor may define qualifying "long-term subordinated debt" for purposes of this section. [1991 c 208 § 5.]

**31.04.050 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.055 License—Supervisor's duties.** (Effective January 1, 1992.) (1) The supervisor shall issue and deliver a license to the applicant to make loans in accordance with this chapter at the location specified in

the application if, after investigation, the supervisor finds that the applicant has paid all required fees, has complied with RCW 31.04.045, and that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the supervisor does not find the conditions of subsection (1) of this section have been met, the supervisor shall not issue the license. The supervisor shall notify the applicant of the denial and return to the applicant the bond posted and the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application. The supervisor shall approve or deny every application for license under this chapter within sixty days from the filing of a complete application with the fees and the approved bond. [1991 c 208 § 6.]

**31.04.060 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.065 License—Information contained—Requirement to post. (Effective January 1, 1992.)** The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of its members, and if a corporation, the date and place of its incorporation. The licensee shall conspicuously post the license in the place of business of the licensee. The license is not transferable or assignable. [1991 c 208 § 7.]

**31.04.070 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.075 Licensee—Multiple locations. (Effective January 1, 1992.)** The licensee may not maintain more than one place of business under the same license, but the supervisor may issue more than one license to the same licensee upon application by the licensee in a form and manner established by the supervisor. A licensee who has five licensed locations shall not be required to maintain a bond in a penal sum exceeding ten thousand dollars for each additionally licensed location.

Whenever a licensee wishes to change the place of business to a street address other than that designated in the license, the licensee shall give written notice to the supervisor and shall obtain the supervisor's approval. [1991 c 208 § 8.]

**31.04.080 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.085 Licensee—Fee—Bond—Time of payment. (Effective January 1, 1992.)** A licensee shall, for each license held by any person, on or before the twentieth day of each December, pay to the supervisor

an annual license fee. At the same time the licensee shall file with the supervisor the required bond or otherwise demonstrate compliance with RCW 31.04.045. [1991 c 208 § 9.]

**31.04.090 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.093 License—Revocation, surrender, suspension. (Effective January 1, 1992.)** (1) The supervisor may revoke a license issued under this chapter if the supervisor finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the supervisor lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; or

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the supervisor to deny the application for the original license. The supervisor may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the supervisor finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the supervisor may revoke or suspend all of the licenses issued to the licensee.

(2) A licensee may surrender a license by delivering to the supervisor written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender.

(3) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a pre-existing lawful contract between the licensee and a borrower.

(4) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, or suspended in accordance with this chapter. However, the supervisor may on his or her own initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if the supervisor finds that the licensee meets all the requirements of this chapter. [1991 c 208 § 10.]

**31.04.095 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.100 Repealed. (Effective January 1, 1992.)** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.105 Licensee—Powers—Restrictions. (Effective January 1, 1992.)** Every licensee may:

(1) Lend money at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed;

(2) In connection with the making of a loan, charge the borrower a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan;

(3) Agree with the borrower for the payment of fees for title insurance, appraisals, recording, reconveyance, and releasing when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) Charge and collect a penalty of ten cents or less on each dollar of any installment payment delinquent ten days or more;

(5) Make open-end loans as provided in this chapter;

(6) Charge and collect a fee for dishonored checks in an amount approved by the supervisor; and

(7) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower. [1991 c 208 § 11.]

**31.04.110 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.115 Open-end loan—Requirements—Restrictions—Options. (Effective January 1, 1992.)** (1) As used in this section, "open-end loan" means an agreement between a licensee and a borrower that expressly states that the loan is made in accordance with this chapter and that provides that:

(a) A licensee may permit the borrower to obtain advances of money from the licensee from time to time, or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time without prepayment penalty or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) Interest charges on an open-end loan shall not exceed twenty-five percent per annum computed in each billing cycle by any of the following methods:

(a) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(b) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the methods of computation specified in this subsection, the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle is considered monthly if the closing date of the cycle is on the same date each month, or does not vary by more than four days from that date.

(3) In addition to the charges permitted under subsection (2) of this section, the licensee may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. Except as prohibited or limited by this section, the licensee may also contract for and receive on an open-end loan any additional charge permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges.

(4)(a) If credit life or disability insurance is provided, and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance must be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, or all minimum payments that become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for the insurance, as permitted by the insurance commissioner, to the unpaid balances in the borrower's account, using any of the methods specified in subsection (2) of this section for the calculation of interest; and

(b) The licensee shall not cancel credit life or disability insurance written in connection with an open-end

loan because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of the payments is past due for a period of ninety days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(5) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated. The security interest shall be promptly released if (a) there has been no outstanding balance in the account for twelve months and the borrower either does not have or surrenders the unilateral right to create a new outstanding balance; or (b) the account is terminated at the borrower's request and paid in full.

(6) The licensee may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans if the licensee mails or delivers written notice of the change to the borrower at least thirty days before the effective date of the increase unless the increase has been earlier agreed to by the borrower. However, the borrower may choose to terminate the open-end account and the licensee shall allow the borrower to repay the unpaid balance incurred before the effective date of the rate increase upon the existing open-end loan account terms and interest rate unless the borrower incurs additional debt on or after the effective date of the rate increase or otherwise agrees to the new rate.

(7) The licensee shall deliver a copy of the open-end loan agreement to the borrower at the time the open-end account is created. The agreement must contain the name and address of the licensee and of the principal borrower, and must contain such specific disclosures as may be required by rule of the supervisor. In adopting the rules the supervisor shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act.

(8) Except in the case of an account that the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by the supervisor. In specifying such form the supervisor shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act. [1991 c 208 § 12.]

**31.04.120 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.125 Loan restrictions—Interest calculations. (Effective January 1, 1992.)** (1) No licensee may make a

loan with a repayment period greater than six years and fifteen days after the loan origination date except for open-end loans or loans secured by real estate or personal property used as a residence.

(2) No licensee may make a loan using any method of calculating interest other than the simple interest method; except that the add-on method of calculating interest may be used for a loan not secured by real property or personal property used as a residence when the repayment period does not exceed three years and fifteen days after the loan origination date.

(3) No licensee may make a loan secured by real estate in an amount in excess of ninety percent of the value of such real estate and improvements, including all prior liens against the property.

(4) No licensee may make a loan using the add-on method to calculate interest that does not provide for a refund to the borrower or a credit to the borrower's account of any unearned interest when the loan is repaid before the original maturity date in full by cash, by a new loan, by refinancing, or otherwise before the final due date. The refund must be calculated using the actuarial method, unless a sum equal to two or more installments has been prepaid and the account is not in arrears and continues to be paid ahead, in which case the interest on the account must be recalculated by the simple interest method with the refund of unearned interest made as if the loan had been made using the simple interest method. When computing an actuarial refund, the lender may round the annual rate used to the nearest quarter of one percent.

In computing a required refund of unearned interest, a prepayment made on or before the fifteenth day after the scheduled payment date is deemed to have been made on the payment date preceding the prepayment. In the case of prepayment before the first installment due date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each day between the origination date of the loan and the actual date of prepayment.

(5) No licensee may provide credit life or disability insurance in an amount greater than that required to pay off the total balance owing on the date of the borrower's death net of refunds in the case of credit life insurance, or all minimum payments that become due on the loan during the covered period of disability in the case of credit disability insurance. The lender may not require any such insurance.

(6) Except in the case of loans by mail, where the borrower has sufficient time to review papers before returning them, no licensee may prepare loan papers in advance of the loan closing without having reviewed with the borrower the terms and conditions of the loan to include the type and amount of insurance, if any, requested by the borrower. [1991 c 208 § 13.]

**31.04.130 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.135 Advertisements or promotions.** (Effective January 1, 1992.) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money that is false, misleading, or deceptive. [1991 c 208 § 14.]

**31.04.140 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.145 Examinations—Supervisor's duties—Costs.** (Effective January 1, 1992.) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the supervisor may at any time, either personally or by a designee, investigate the loans and business and examine, wherever located, the books, accounts, records, and files used in the business of every licensee and of every person who is engaged in the business described in RCW 31.04.035, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the supervisor and designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The supervisor and persons designated by the supervisor may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing. The supervisor shall make such an examination of the affairs, business, office, and records of each licensee at least once each eighteen months. The licensee so examined shall pay to the supervisor the actual cost of examining and supervising each licensed place of business. [1991 c 208 § 15.]

**31.04.150 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.155 Licensee—Recordkeeping—Report requirement.** (Effective January 1, 1992.) The licensee shall keep and use in the business such books, accounts, and records as will enable the supervisor to determine whether the licensee is complying with this chapter and with the rules adopted by the supervisor under this chapter. The supervisor shall have free access to such books, accounts, and records wherever located. Every licensee shall preserve the books, accounts, and records for at least two years after making the final entry on any loan recorded in them.

Each licensee shall on or before the first day of March each year file a report with the supervisor giving such relevant information as the supervisor reasonably may require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the licensee within the state. The report must be made under oath and must be in the

form prescribed by the supervisor, who shall make and publish annually an analysis and recapitulation of the reports. [1991 c 208 § 16.]

**31.04.160 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.165 Supervisor—Broad administrative discretion—Rulemaking.** (Effective January 1, 1992.) (1) The supervisor has the power, and broad administrative discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by loan companies subject to this chapter. The supervisor shall adopt all rules necessary to ensure complete and full disclosure by licensees of lending transactions governed by this chapter.

(2) If it appears to the supervisor that a licensee is conducting business in an injurious manner or is violating any provision of this chapter, the supervisor may direct the discontinuance of any such injurious or illegal practice. [1991 c 208 § 17.]

**31.04.175 Violation—Penalty—Gross misdemeanor.** (Effective January 1, 1992.) (1) Every licensee that fails to file a report that is required to be filed by this chapter within the time required under this chapter is subject to a penalty of fifty dollars per day for each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any such penalty.

(2) A person who violates, or knowingly aids or abets the violation of any provision of this chapter for which no penalty has been prescribed, and a person who fails to perform any act that it is made his or her duty to perform under this chapter and for which failure no penalty has been prescribed, is guilty of a gross misdemeanor. No person who has been convicted for the violation of the banking laws of this state or of the United States may be permitted to engage in the business, or become an officer or official, of any licensee in this state.

(3) No provision imposing civil penalties or criminal liability under this chapter or rule adopted under this chapter applies to an act taken or omission made in good faith in conformity with a written notice, interpretation, or examination report of the supervisor or his or her agent. [1991 c 208 § 18.]

**31.04.185 Repealed sections of law—Rules adopted under.** (Effective January 1, 1992.) All rules adopted under or to implement the provisions of law repealed by sections 23 and 24, chapter 208, Laws of 1991 remain in effect until amended or repealed by the supervisor. [1991 c 208 § 19.]

**31.04.200 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.210 Repealed.** (Effective January 1, 1992.) See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.220 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.230 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.250 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.260 Repealed. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.270 Decodified. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.280 Decodified. (Effective January 1, 1992.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.04.900 Severability—1991 c 208.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 208 § 20.]

**31.04.901 Short title.** This chapter shall be known as the consumer loan act. [1991 c 208 § 21.]

**31.04.902 Effective dates, implementation—1991 c 208.** (1) Sections 1 through 23 of this act shall take effect January 1, 1992, but the supervisor shall take such steps and adopt such rules as are necessary to implement this act by that date.

(2) Section 24 of this act shall take effect January 1, 1993. [1991 c 208 § 25.]

### Chapter 31.08

#### CONSUMER FINANCE ACT

##### Sections

31.08.010	Repealed. (Effective January 1, 1993.)
31.08.020	Repealed. (Effective January 1, 1993.)
31.08.030	Repealed. (Effective January 1, 1993.)
31.08.050	Repealed. (Effective January 1, 1993.)
31.08.060	Repealed. (Effective January 1, 1993.)
31.08.070	Repealed. (Effective January 1, 1993.)
31.08.080	Repealed. (Effective January 1, 1993.)
31.08.090	Repealed. (Effective January 1, 1993.)
31.08.100	Repealed. (Effective January 1, 1993.)
31.08.130	Repealed. (Effective January 1, 1993.)
31.08.140	Repealed. (Effective January 1, 1993.)
31.08.150	Repealed. (Effective January 1, 1993.)
31.08.160	Repealed. (Effective January 1, 1993.)
31.08.170	Repealed. (Effective January 1, 1993.)
31.08.173	Repealed. (Effective January 1, 1993.)
31.08.175	Repealed. (Effective January 1, 1993.)
31.08.180	Repealed. (Effective January 1, 1993.)
31.08.190	Repealed. (Effective January 1, 1993.)
31.08.200	Repealed. (Effective January 1, 1993.)
31.08.210	Repealed. (Effective January 1, 1993.)

31.08.220	Repealed. (Effective January 1, 1993.)
31.08.230	Repealed. (Effective January 1, 1993.)
31.08.240	Repealed. (Effective January 1, 1993.)
31.08.250	Repealed. (Effective January 1, 1993.)
31.08.260	Repealed. (Effective January 1, 1993.)
31.08.270	Repealed. (Effective January 1, 1993.)
31.08.900	Repealed. (Effective January 1, 1993.)
31.08.910	Repealed. (Effective January 1, 1993.)
31.08.911	Repealed. (Effective January 1, 1993.)
31.08.920	Repealed. (Effective January 1, 1993.)

**31.08.010 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.020 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.030 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.050 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.060 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.070 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.080 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.090 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.100 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.130 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.140 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.150 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.160 Repealed. (Effective January 1, 1993.)**  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.170 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.173 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.175 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.180 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.190 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.200 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.210 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.220 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.230 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.240 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.250 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.260 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.270 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.900 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.910 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.911 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**31.08.920 Repealed.** (Effective January 1, 1993.)  
See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 31.12

### WASHINGTON STATE CREDIT UNION ACT

#### Sections

31.12.125 Powers.

**31.12.125 Powers.** A credit union may:

(1) Issue shares to and receive deposits from its members as provided in this chapter and the bylaws of the credit union;

(2) Make loans to its members as provided in this chapter and the bylaws of the credit union;

(3) Pay dividends or interest to its members;

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans in accordance with the bylaws of the credit union and recover reasonable costs and expenses, including reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due it if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, hypothecate, sell, or otherwise dispose of a possessory interest in personal property and, with the prior written permission of the supervisor, in real property, so long as the property is necessary or incidental to the operation of the credit union. The written permission of the supervisor is not required for the acquisition and disposition of property through the collection of loans secured by the property;

(7) Deposit and invest funds in excess of the amount approved for loans to members as provided in this chapter;

(8) Borrow money, up to a maximum of fifty percent of its paid-in and unimpaired capital and surplus;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union. A credit union may not discount or sell more than ten percent of its assets without the prior written approval of the supervisor;

(10) Accept deposits of deferred compensation of its members under the terms and conditions of RCW 28A.400.240 and 41.04.250(2);

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in other credit unions organized under this chapter or other laws and in associations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law; and

(14) Exercise such incidental powers as are necessary or requisite to enable it to carry on effectively the business for which it is incorporated. [1990 c 33 § 564; 1984 c 31 § 14.]

~~Purpose~~—~~Statutory references~~—~~Severability~~—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

### Chapter 31.24

## INDUSTRIAL DEVELOPMENT CORPORATIONS

#### Sections

31.24.030 Corporate powers.  
31.24.150 Dissolution—Method—Distribution of assets.

**31.24.030 Corporate powers.** In furtherance of its purposes and in addition to the powers now or hereafter conferred on business corporations by the provisions of Title 23B RCW, the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(1) To elect, appoint and employ officers, agents and employees; to make contracts and incur liabilities for any of the purposes of the corporation: **PROVIDED**, That the corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint stock company, association or trust, or in any other manner.

(2) To borrow money from its members and the small business administration and any other similar federal agency, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidence of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval: **PROVIDED**, That no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.

(3) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith: **PROVIDED**, That the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

(4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such

rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

(5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations or trusts, and to assume, undertake, or pay the obligations, debts and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.

(6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(7) To mortgage, pledge, or otherwise encumber any property, right or things of value, acquired pursuant to the powers contained in subsections (4), (5), or (6) of this section, as security for the payment of any part of the purchase price thereof.

(8) To cooperate with and avail itself of the facilities of the United States department of commerce, the department of trade and economic development, and any other similar state or federal governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof.

(9) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter. [1991 c 72 § 49; 1985 c 466 § 42; 1983 c 3 § 51; 1963 c 162 § 3.]

~~Effective date~~—~~Severability~~—1985 c 466: See notes following RCW 43.31.005.

**31.24.150 Dissolution—Method—Distribution of assets.** The corporation may upon the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the member shall be entitled dissolve said corporation as provided by Title 23B RCW, insofar as Title 23B RCW is not in conflict with the provisions of this chapter. Upon any dissolution of the corporation, none of the corporation's assets shall be distributed to the stockholders until all sums due the members of the corporation as creditors thereof have been paid in full. [1991 c 72 § 50; 1983 c 3 § 52; 1963 c 162 § 15.]

## Chapter 31.35

## AGRICULTURAL LENDERS—LOAN GUARANTY PROGRAM

Sections	
31.35.010	Findings—Intent.
31.35.020	Definitions.
31.35.030	Administration—Rules—Duties of supervisor.
31.35.040	Participation by agricultural lender—Powers and privileges.
31.35.050	Costs of supervision—Fees.
31.35.060	Responsibility of agricultural lender—Recordkeeping—Loan loss reserve.
31.35.070	Examination of agricultural lender.
31.35.080	Enforcement—Responsibility of supervisor—Penalty.
31.35.090	Enforcement—Court order.
31.35.100	Notice—Investments not insured.
31.35.900	Severability—Administrative review—1990 c 134.

*Supervisor of banking and bank examiners: Chapter 43.19 RCW.*

**31.35.010 Findings—Intent.** The legislature finds and declares that nondepository agricultural lenders can enhance their access to working capital for the purpose of financing agricultural borrowers by using the United States farmers home administration loan guaranty program. The farmers home administration loan guaranty program provides financing to agricultural borrowers needing working capital and longer term financing for the purchase of real estate, agricultural production expenses, debt refinancing, equipment, and the purchase of other fixed assets. Loans can be made to agricultural borrowers by nondepository lenders and guaranteed by the farmers home administration only if the state provides an ongoing opportunity for examination of such entities to confirm good lending practices and solvency.

It is the intent of the legislature to empower the supervisor of banking to examine nondepository agricultural lenders for the purpose of allowing such lenders to qualify for participation in the farmers home administration loan guaranty program. [1990 c 134 § 1.]

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

(1) "Agricultural lender" means a Washington corporation incorporated under Title 23B or 24 RCW and qualified as such under this chapter and the jurisdiction of the federal government agency sponsoring the loan guaranty program.

(2) "Supervisor" means the state supervisor of banking.

(3) "Loan guaranty program" means the farmers home administration loan guaranty program, or any other government program for which the agricultural lender is eligible and which has as its function the provision, facilitation, or financing of agricultural business operations. [1990 c 134 § 2.]

**31.35.030 Administration—Rules—Duties of supervisor.** (1) The supervisor shall administer this chapter. The supervisor may issue orders and adopt rules that, in the opinion of the supervisor, are necessary to

execute, enforce, and effectuate the purposes of this chapter. Rules to enforce the provisions of this chapter shall be adopted under the administrative procedure act, chapter 34.05 RCW.

(2) An application filed with the supervisor under this chapter shall be in such form and contain such information as required by the supervisor by rule and be consistent with the requirements of the loan guaranty program.

(3) After the supervisor is satisfied that the applicant has satisfied all the conditions necessary for approval, the supervisor shall issue a license to the applicant authorizing it to be an agricultural lender under this chapter.

(4) Any change of control of an agricultural lender shall be subject to the approval of the supervisor. Such approval shall be subject to the same criteria as the criteria for approval of the original license. For purposes of this subsection, "change of control" means directly or indirectly, alone or in concert with others, to own, control, or hold the power to vote ten percent or more of the outstanding voting stock of an agricultural lender or the power to elect or control the election of a majority of the board of directors of an agricultural lender.

(5) The supervisor may deny, suspend, or revoke a license if the agricultural lender violates any provision of this chapter or any rules promulgated pursuant to this chapter. [1990 c 134 § 3.]

**31.35.040 Participation by agricultural lender—Powers and privileges.** (1) An agricultural lender may participate in a loan guaranty program. If an agricultural lender participates in a loan guaranty program, the agricultural lender shall comply with the requirements of that program.

(2) An agricultural lender may be incorporated under either the Washington business corporation act, Title 23B RCW, or the Washington nonprofit corporation act, Title 24 RCW. In addition to the powers and privileges provided to an agricultural lender by this chapter, an agricultural lender has all the powers and privileges conferred by its incorporating statute that are not inconsistent with or limited by this chapter. [1990 c 134 § 4.]

**31.35.050 Costs of supervision—Fees.** (1) The supervisor is authorized to charge a fee for the estimated direct and indirect costs for examination and supervision by the supervisor of an agricultural lender or a subsidiary of an agricultural lender. Excess examiner time shall be billed at a reasonable rate established by rule.

(2) All such fees shall be deposited in the banking examination fund and administered consistent with the provisions of RCW 43.19.095. [1990 c 134 § 5.]

**31.35.060 Responsibility of agricultural lender—Recordkeeping—Loan loss reserve.** (1) An agricultural lender shall keep books, accounts, and other records in such form and manner as required by the supervisor. These records shall be kept at such place and shall be preserved for such length of time as specified by the supervisor by rule.

(2) Not more than ninety days after the close of each calendar year, or within a period specified by the supervisor, an agricultural lender shall file with the supervisor a report containing the following:

(a) Financial statements, including the balance sheet, the statement of income or loss, the statement of changes in capital accounts, and the statement of changes in financial position; and

(b) Other information that the supervisor may require.

(3) Each agricultural lender shall provide for a loan loss reserve sufficient to cover projected loan losses that are not guaranteed by the United States government or any agency thereof. [1990 c 134 § 6.]

**31.35.070 Examination of agricultural lender.** (1) The supervisor, the deputy supervisor, or a bank examiner shall visit each agricultural lender at least every twenty-four months for the purpose of assuring that the agricultural lender remains in compliance with and qualified for the loan guaranty program.

(a) The supervisor may accept timely audited financial statements and other timely reports the supervisor determines to be relevant and accurate as part of a full and complete examination of the agricultural lender. The supervisor shall make an independent review of loans guaranteed by the loan guaranty program.

(b) The agricultural lender shall be exempt from examination under this subsection if it terminates its activities under the loan guaranty program and no loans guaranteed by the loan guaranty program remain on the books. This exemption becomes effective upon notification to the supervisor. The supervisor shall confirm termination of activities under the loan guaranty program with the appropriate federal agency.

(c) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of an agricultural lender are confidential to the same extent bank examinations are confidential under RCW 30.04.075.

(d) All examination reports may be shared with other state or federal agencies consistent with chapter 30.04 RCW.

(2) A director, officer, or employee of an agricultural lender or of a subsidiary of an agricultural lender being examined by the supervisor or a person having custody of any of the books, accounts, or records of the agricultural lender or of the subsidiary shall facilitate the examination so far as it is in his or her power to do so.

(3) If in the supervisor's opinion it is necessary in the examination of an agricultural lender or of a subsidiary of an agricultural lender, the supervisor may retain any certified public accountant, attorney, appraiser, or other person to assist the supervisor. The agricultural lender being examined shall pay the fees of a person retained by the supervisor under this subsection. [1990 c 134 § 7.]

**31.35.080 Enforcement—Responsibility of supervisor—Penalty.** (1) The supervisor shall adopt rules to

enforce the intent and purposes of this chapter. Such rules shall include, but not be limited to, the following:

(a) Disclosure of conflicts of interest;

(b) Prohibition of false statements made to the supervisor on any form required by the supervisor or during any examination; or

(c) Prevention of fraud and undue influence within an agricultural lender.

(2) A violation of any provision of this chapter or any rule of the supervisor adopted under this chapter by an agent, employee, officer, or director of the agricultural lender shall be punishable by a fine, established by the supervisor, not to exceed one hundred dollars for each offense. Each day's continuance of the violation shall be a separate and distinct offense. All fines shall be credited to the banking examination fund.

(3) The supervisor may issue and serve upon an agricultural lender a notice of charges if, in the opinion of the supervisor, the agricultural lender is violating or has violated the law, rule, or any condition imposed in writing by the supervisor or any written agreement made by the supervisor.

(a) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the agricultural lender. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the agricultural lender.

Unless the agricultural lender appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of consent or if, upon the record made at the hearing, [the supervisor] finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the agricultural lender an order to cease and desist from the violation or practice. The order may require the agricultural lender and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the agricultural lender to take affirmative action to correct the conditions resulting from the violation or practice.

(b) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the agricultural lender concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court. [1990 c 134 § 8.]

**31.35.090 Enforcement—Court order.** If, in the opinion of the supervisor, an agricultural lender violates or there is reasonable cause to believe that an agricultural lender is about to violate any provision of this chapter or any rule adopted under this chapter, the supervisor may bring an action in the appropriate court to enjoin the violation or to enforce compliance. Upon a proper showing, a restraining order, [or] preliminary or

permanent injunction, shall be granted, and a receiver or a conservator may be appointed for the agricultural lender or the agricultural lender's assets. [1990 c 134 § 9.]

**31.35.100 Notice—Investments not insured.** All agricultural lenders shall notify their members at the time of membership and annually thereafter that their investment in the agricultural lender, although regulated by the supervisor, is not insured, guaranteed, or protected by any federal or state agency. [1990 c 134 § 10.]

**31.35.900 Severability—Administrative review—1990 c 134.** If any provision of this act or its application to any person or circumstance is held invalid or, if in the written opinion of the farmers home administration, is contrary to the intent and purposes of the loan guaranty program, the supervisor shall not enforce such provision, but the remainder of the act or the application of the provision to other persons or circumstances shall not be affected. [1990 c 134 § 11.]

## Chapter 31.45

### CHECK CASHERS AND SELLERS

Sections	
31.45.010	Definitions. (Effective January 1, 1992.)
31.45.020	Application of chapter. (Effective January 1, 1992.)
31.45.030	License required—Application—Fee—Bond—Supervisor's duties. (Effective January 1, 1992.)
31.45.040	Application for license—Financial responsibility—Supervisor's investigation. (Effective January 1, 1992.)
31.45.050	License—Renewal—Fee—Notice. (Effective January 1, 1992.)
31.45.060	Licensee—Schedule of fee and charges—Record-keeping. (Effective January 1, 1992.)
31.45.070	Licensee—Permissible transactions—Restrictions. (Effective January 1, 1992.)
31.45.080	Trust funds—Deposit requirements—Rules. (Effective January 1, 1992.)
31.45.090	Report requirements—Rules. (Effective January 1, 1992.)
31.45.100	Examination—Supervisor's duty. (Effective January 1, 1992.)
31.45.110	Violation or unsound practice—Notice of charges—Hearing—Cease and desist order—Supervisor's duty. (Effective January 1, 1992.)
31.45.120	Violation or unsound practice—Temporary cease and desist order—Supervisor's duty. (Effective January 1, 1992.)
31.45.130	Temporary cease and desist order—Licensee's application for injunction. (Effective January 1, 1992.)
31.45.140	Violation of temporary cease and desist order—Supervisor's application for injunction. (Effective January 1, 1992.)
31.45.150	Licensee's failure to perform obligations—Supervisor's duty. (Effective January 1, 1992.)
31.45.160	Supervisor's possession of property and business—Appointment of receiver. (Effective January 1, 1992.)
31.45.170	Violation—Penalty. (Effective January 1, 1992.)
31.45.180	Violation—Misdemeanor. (Effective January 1, 1992.)
31.45.190	Violation—Consumer protection act—Remedies. (Effective January 1, 1992.)
31.45.200	Supervisor—Broad administrative discretion. (Effective January 1, 1992.)
31.45.900	Effective date, implementation—1991 c 355.

**31.45.010 Definitions. (Effective January 1, 1992.)** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) "Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of or selling checks, drafts, money orders, or other commercial paper serving the same purpose.

(3) "Licensee" means a check casher or seller licensed by the supervisor to engage in business in accordance with this chapter.

(4) "Supervisor" means the supervisor of banking. [1991 c 355 § 1.]

**31.45.020 Application of chapter. (Effective January 1, 1992.)** (1) This chapter does not apply to:

(a) Any bank, trust company, savings bank, savings and loan association, or credit union;

(b) The cashing of checks, drafts, or money orders by any corporation, partnership, association, or person who cashes checks, drafts, or money orders as a convenience, as a minor part of its customary business, and not for profit;

(c) The issuance or sale of checks, drafts, or money orders by any corporation, partnership, or association that has a net worth of not less than three million dollars as shown by audited financial statements; and

(d) The issuance or sale of checks, drafts, money orders, or other commercial paper serving the same purpose by any agent of a corporation, partnership, or association described in (c) of this subsection.

(2) Upon application to the supervisor, the supervisor may exempt a corporation, partnership, association, or other person from any or all provisions of this chapter upon a finding by the supervisor that although not otherwise exempt under this section, the applicant is not primarily engaged in the business of cashing or selling checks and a total or partial exemption would not be detrimental to the public. [1991 c 355 § 2.]

**31.45.030 License required—Application—Fee—Bond—Supervisor's duties. (Effective January 1, 1992.)** (1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the supervisor in accordance with this chapter.

(2) Each application for a license shall be in writing in a form prescribed by the supervisor and shall contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(b) The location where the initial registered office of the applicant will be located in this state;

(c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller;

(d) Such other data, financial statements, and pertinent information as the supervisor may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(4) The application shall be filed together with an investigation and supervision fee established by rule by the supervisor. Such fees collected shall be deposited to the credit of the banking examination fund in accordance with RCW 43.19.095.

(5)(a) If the applicant intends to engage in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose, the supervisor shall require the applicant to obtain and maintain an adequate fidelity bond or blanket fidelity bond covering each officer, employee, or agent having access to funds collected by or for the licensee. The bond shall be for the protection of the public against loss suffered through embezzlement by any person having access to funds collected by or for the licensee or having authority to draw against such funds, or from mysterious disappearance, theft, holdup, or burglary.

(b) In lieu of providing a bond, the licensee may deposit with the supervisor security in the form and amount determined by the supervisor sufficient to protect the public against loss suffered through embezzlement by any person having access to funds collected by or for the licensee or having authority to draw against such funds, or from mysterious disappearance, theft, holdup, or burglary.

(c) Such security may be sold by the supervisor at public auction if it becomes necessary to satisfy the requirements of this chapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the supervisor. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the supervisor additional security sufficient to meet the amount required by the supervisor. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. [1991 c 355 § 3.]

**31.45.040 Application for license—Financial responsibility—Supervisor's investigation. (Effective January 1, 1992.)** (1) The supervisor shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general

fitness of the applicant. The supervisor shall issue the applicant a license to engage in the business of cashing or selling checks, or both, if the supervisor determines to his or her satisfaction that:

(a) The applicant is financially responsible and appears to be able to conduct the business of cashing or selling checks in an honest, fair, and efficient manner with the confidence and trust of the community; and

(b) The applicant has the required bonds.

(2) The supervisor may refuse to issue a license if he or she finds that the applicant, or any person who is a director, officer, partner, agent, or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or is associating or consorting with any person who has been convicted of a felony in any jurisdiction. The term "substantial stockholder" as used in this subsection, means a person owning or controlling ten percent or more of the total outstanding shares of the applicant corporation.

(3) No license may be issued to an applicant whose license to conduct business under this chapter had been revoked by the supervisor within the twelve-month period preceding the application.

(4) A license issued under this chapter shall be conspicuously posted in the place of business of the licensee. The license is not transferable or assignable.

(5) A license issued in accordance with this chapter remains in force and effect through the remainder of the calendar year following its date of issuance unless earlier surrendered, suspended, or revoked.

(6) The supervisor's investigation and fees required under this chapter shall differentiate between check cashing and check selling activities and take into consideration the level of risk and potential harm to the public related to each such activity. [1991 c 355 § 4.]

**31.45.050 License—Renewal—Fee—Notice. (Effective January 1, 1992.)** (1) A license may be renewed upon the filing of an application containing such information as the supervisor may require and by the payment of a fee in an amount determined by the supervisor as necessary to cover the costs of supervision. Such fees collected shall be deposited to the credit of the bank [banking] examination fund in accordance with RCW 43.19.095. The supervisor shall renew the license in accordance with the standards for issuance of a new license.

(2) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the supervisor no less than thirty days before the proposed establishing, closing, or moving of a place of business. [1991 c 355 § 5.]

**31.45.060 Licensee—Schedule of fee and charges—Recordkeeping. (Effective January 1, 1992.)** (1) A schedule of the fees and the charges for the cashing and selling of checks, drafts, money orders, or other commercial paper serving the same purpose shall

be conspicuously and continuously posted in every location licensed under this chapter. The licensee shall provide to its customer a receipt for each transaction. The receipt must include the name of the licensee, the type and amount of the transaction, and the fee or fees charged for the transaction.

(2) Each licensee shall keep and maintain such business books, accounts, and records as the supervisor may require to fulfill the purposes of this chapter. Every licensee shall preserve such books, accounts, and records for at least two years.

(3) A check, draft, or money order sold by a licensee shall be drawn on an account of a licensee maintained at a bank, savings bank, or savings and loan association authorized to do business in the state of Washington. [1991 c 355 § 6.]

**31.45.070 Licensee—Permissible transactions—Restrictions.** (Effective January 1, 1992.) (1) Except for the activities of a pawnbroker as defined in RCW 19.60.010, no licensee may engage in a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks, or other evidences of debt on the same premises where a check cashing or selling business is conducted, unless such loan business is a properly licensed consumer finance company or industrial loan company office or other lending activity permitted in the state of Washington and is physically separated from the check cashing or selling business in a manner approved by the supervisor.

(2) No licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

(a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or

(b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) No licensee may agree to hold a check or draft for later deposit. A licensee shall deposit all checks and drafts cashed by the licensee as soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information, or that refers to the supervision of the licensee by the state of Washington or any department or official of the state.

(6) Each licensee shall comply with all applicable federal statutes governing currency transaction reporting. [1991 c 355 § 7.]

**31.45.080 Trust funds—Deposit requirements—Rules.** (Effective January 1, 1992.) (1) All funds received by a licensee or its agents from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose constitute trust funds owned by and belonging to the person from whom they were received or to the person who has paid the checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) All such trust funds shall be deposited in a bank, savings bank, or savings and loan association located in Washington state in an account or accounts in the name of the licensee designated "trust account," or by some other appropriate name indicating that the funds are not the funds of the licensee or of its officers, employees, or agents. Such funds are not subject to attachment, levy of execution, or sequestration by order of a court except by a payee, assignee, or holder in due course of a check, draft, or money order sold by a licensee or its agent. Funds in the trust account, together with funds and checks on hand and in the hands of agents held for the account of the licensee at all times shall be at least equal to the aggregate liability of the licensee on account of checks, drafts, money orders, or other commercial paper serving the same purpose that are sold.

(3) The supervisor shall adopt rules requiring the licensee to periodically withdraw from the trust account the portion of trust funds earned by the licensee from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose. If a licensee has accepted, in payment for a check, draft, money order, or commercial paper serving the same purpose issued by the licensee, a check or draft that is subsequently dishonored, the supervisor shall prohibit the withdrawal of earned funds in an amount necessary to cover the dishonored check or draft.

(4) If a licensee or its agent commingles trust funds with its own funds, all assets belonging to the licensee or its agent are impressed with a trust in favor of the persons specified in subsection (1) of this section in an amount equal to the aggregate funds that should have been segregated. Such trust continues until an amount equal to the necessary aggregate funds have been deposited in accordance with subsection (2) of this section.

(5) Upon request of the supervisor, a licensee shall furnish to the supervisor an authorization for examination of financial records of any trust fund account established for compliance with this section.

(6) The supervisor may adopt any rules necessary for the maintenance of trust accounts, including rules establishing procedures for distribution of trust account funds if a license is suspended, terminated, or not renewed. [1991 c 355 § 8.]

**31.45.090 Report requirements—Rules.** (Effective January 1, 1992.) (1) Each licensee shall submit to the supervisor, in a form approved by the supervisor, a report containing financial statements covering the calendar year or, if the licensee has an a [an] established fiscal year, then for such fiscal year, within one hundred five days after the close of each calendar or fiscal year.

The licensee shall also file such additional relevant information as the supervisor may require.

(2) A licensee whose license has been suspended or revoked shall submit to the supervisor, at the licensee's expense, within one hundred five days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the twelve months ending with such effective date.

(3) The supervisor shall adopt rules specifying the form and content of such audit reports and may require additional reporting as is necessary for the supervisor to ensure compliance with this chapter. [1991 c 355 § 9.]

**31.45.100 Examination—Supervisor's duty.** (Effective January 1, 1992.) The supervisor may at any time investigate the business and examine the books, accounts, records, and files of any licensee or person who the supervisor has reason to believe is engaging in the business governed by this chapter. The supervisor shall collect from the licensee, the actual cost of the examination. [1991 c 355 § 10.]

**31.45.110 Violation or unsound practice—Notice of charges—Hearing—Cease and desist order—Supervisor's duty.** (Effective January 1, 1992.) (1) The supervisor may issue and serve upon a licensee a notice of charges if, in the opinion of the supervisor, any licensee:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business governed by this chapter;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the supervisor in connection with the granting of any application or other request by the licensee or any written agreement made with the supervisor; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the licensee.

Unless the licensee personally appears at the hearing or by a duly authorized representative, the licensee is deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the supervisor finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the licensee an order to cease and desist from the violation or practice. The order may require the licensee and its directors, officers, employees, and agents to cease and desist from the violation or practice and

may require the licensee to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order becomes effective upon the expiration of ten days after the service of the order upon the licensee concerned, except that a cease and desist order issued upon consent becomes effective at the time specified in the order and remains effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court. [1991 c 355 § 11.]

**31.45.120 Violation or unsound practice—Temporary cease and desist order—Supervisor's duty.** (Effective January 1, 1992.) Whenever the supervisor determines that the acts specified in RCW 31.45.110 or their continuation is likely to cause insolvency or substantial injury to the public, the supervisor may also issue a temporary order requiring the licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and remains effective unless set aside, limited, or suspended by a court under RCW 31.45.130 pending the completion of the administrative proceedings under the notice and until such time as the supervisor dismisses the charges specified in the notice or until the effective date of the cease and desist order issued against the licensee under RCW 31.45.110. [1991 c 355 § 12.]

**31.45.130 Temporary cease and desist order—Licensee's application for injunction.** (Effective January 1, 1992.) Within ten days after a licensee has been served with a temporary cease and desist order, the licensee may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 31.45.120. The superior court has jurisdiction to issue the injunction. [1991 c 355 § 13.]

**31.45.140 Violation of temporary cease and desist order—Supervisor's application for injunction.** (Effective January 1, 1992.) In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 31.45.120, the supervisor may apply to the superior court of the county of the principal place of business of the licensee for an injunction. [1991 c 355 § 14.]

**31.45.150 Licensee's failure to perform obligations—Supervisor's duty.** (Effective January 1, 1992.) Whenever as a result of an examination or report it appears to the supervisor that:

(1) The capital of any licensee is impaired;

(2) Any licensee is conducting its business in such an unsafe or unsound manner as to render its further operations hazardous to the public;

(3) Any licensee has suspended payment of its trust obligations;

(4) Any licensee has refused to submit its books, papers, and affairs to the inspection of the supervisor or the supervisor's examiner;

(5) Any officer of any licensee refuses to be examined under oath regarding the business of the licensee;

(6) Any licensee neglects or refuses to comply with any order of the supervisor made pursuant to this chapter unless the enforcement of such order is restrained in a proceeding brought by such licensee; the supervisor may immediately take possession of the property and business of the licensee and retain possession until the licensee resumes business or its affairs are finally liquidated as provided in RCW 31.45.160. The licensee may resume business upon such terms as the supervisor may prescribe. [1991 c 355 § 15.]

**31.45.160 Supervisor's possession of property and business—Appointment of receiver.** (Effective January 1, 1992.) Whenever the supervisor has taken possession of the property and business of a licensee, the supervisor may petition the superior court for the appointment of a receiver to liquidate the affairs of the licensee. During the time that the supervisor retains possession of the property and business of a licensee, the supervisor has the same powers and authority with reference to the licensee as is vested in the supervisor with respect to industrial loan companies, and the licensee has the same rights to hearings and judicial review as are granted to industrial loan companies. [1991 c 355 § 16.]

**31.45.170 Violation—Penalty.** (Effective January 1, 1992.) Every licensee violating or failing to comply with any provision of this chapter or any lawful direction or requirement of the supervisor is subject, in addition to any penalty otherwise provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation is a separate and distinct offense. [1991 c 355 § 17.]

**31.45.180 Violation—Misdemeanor.** (Effective January 1, 1992.) Any person who violates or participates in the violation of any provision of the rules or orders of the supervisor or of this chapter is guilty of a misdemeanor. [1991 c 355 § 18.]

**31.45.190 Violation—Consumer protection act—Remedies.** (Effective January 1, 1992.) The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. Remedies available under chapter 19.86 RCW shall not affect any other remedy the injured party may have. [1991 c 355 § 19.]

**31.45.200 Supervisor—Broad administrative discretion.** (Effective January 1, 1992.) The supervisor has

the power, and broad administrative discretion, to administer and interpret the provisions of this chapter to ensure the protection of the public. [1991 c 355 § 20.]

**31.45.900 Effective date, implementation—1991 c 355.** This act shall take effect January 1, 1992. The supervisor shall take such steps as are necessary to ensure that this act is implemented on its effective date. [1991 c 355 § 24.]

## Title 33

### SAVINGS AND LOAN ASSOCIATIONS

#### Chapters

33.48 Stock associations.

#### Chapter 33.48

#### STOCK ASSOCIATIONS

(Formerly: Guaranty stock state savings and loan associations)

#### Sections

33.48.025	Applicability of chapter 23B.06 RCW.
33.48.030	Minimum amount of permanent stock required—Preferred or special classes of shares authorized.

**33.48.025 Applicability of chapter 23B.06 RCW.** Except to the extent provided otherwise in this title, stock associations are subject to the provisions of chapter 23B.06 RCW. [1991 c 72 § 51; 1982 c 3 § 91; 1981 c 84 § 4.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**33.48.030 Minimum amount of permanent stock required—Preferred or special classes of shares authorized.** Stock associations shall have permanent stock which may be issued with or without par value but with a statement of value of nonpar stock in accordance with Title 23B RCW. The minimum amount of such stock shall be twenty-five thousand dollars in the case of associations outside of incorporated cities, or in cities of less than twenty-five thousand population. Associations located in cities of greater population shall have as a minimum, fifty thousand dollars of such stock. The board of such association is authorized and directed to issue and maintain the stock in the following percentages: Three percent upon the first five million dollars; two percent upon the next three million dollars, and one percent upon all additional withdrawable savings: PROVIDED, That associations whose savings are insured by the Federal Savings and Loan Insurance Corporation shall not be required to maintain stock in excess of three hundred thousand dollars. A stock association may issue preferred or special classes of shares as provided in chapter 23B.06 RCW. [1991 c 72 § 52; 1982 c 3 § 92; 1981 c 84 § 1; 1969 c 107 § 7; 1963 c 246 § 9; 1955 c 122 § 4.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

## Title 35 CITIES AND TOWNS

### Chapters

- 35.02 Incorporation proceedings.
- 35.13 Annexation of unincorporated areas.
- 35.20 Municipal courts—Cities over four hundred thousand.
- 35.21 Miscellaneous provisions affecting all cities and towns.
- 35.22 First class cities.
- 35.23 Second class cities.
- 35.24 Third class cities.
- 35.27 Towns.
- 35.33 Budgets in second and third class cities, towns and first class cities under 300,000.
- 35.34 Biennial budgets.
- 35.42 Leases.
- 35.58 Metropolitan municipal corporations.
- 35.61 Metropolitan park districts.
- 35.62 Name—Change of.
- 35.63 Planning commissions.
- 35.67 Sewerage systems—Refuse collection and disposal.
- 35.77 Streets—Planning, establishment, construction, and maintenance.
- 35.81 Urban renewal law.
- 35.82 Housing authorities law.
- 35.83 Housing cooperation law.
- 35.92 Municipal utilities.

### Chapter 35.02

#### INCORPORATION PROCEEDINGS

### Sections

- 35.02.125 Newly incorporated city or town—Liability for costs of elections.
- 35.02.130 Newly incorporated city or town—Effective date of incorporation—Powers during interim period—Terms of elected officers—First municipal election.
- 35.02.132 Newly incorporated city or town—Budgets.
- 35.02.135 Newly incorporated city or town—May borrow from municipal sales and use tax equalization account.
- 35.02.137 Newly incorporated city or town—Moratoria on development permits and approvals.
- 35.02.202 Annexation of fire protection district—Delay of transfer.
- 35.02.210 Fire protection district and library district—Continuation of services at option of city or town.
- 35.02.220 Duty of county and road, library, and fire districts to continue services during transition period—Road maintenance and law enforcement services.
- 35.02.260 Duty of department of community development to assist newly incorporated cities and towns.
- 35.02.270 Other local governments and state agencies—May assist newly incorporated cities and towns.

**35.02.125 Newly incorporated city or town—Liability for costs of elections.** A newly incorporated city or town shall be liable for its proportionate share of the costs of all elections, after the election on whether the area should be incorporated, at which an issue relating to the city or town is placed before the voters, as if the

city or town was in existence after the election at which voters authorized the area to incorporate. [1991 c 360 § 2.]

**35.02.130 Newly incorporated city or town—Effective date of incorporation—Powers during interim period—Terms of elected officers—First municipal election.** The city or town officially shall become incorporated at a date from one hundred eighty days to three hundred sixty days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Periods of time that would be required to elapse between the enactment and effective date of such ordinances, including but not limited to times for publication or for filing referendums, shall commence upon the date of such enactment as though the city or town were officially incorporated.

During this interim period, the city or town governing body may adopt rules establishing policies and procedures under the state environmental policy act, chapter 43.21C RCW, and may use these rules and procedures in making determinations under the state environmental policy act, chapter 43.21C RCW.

During this interim period, the newly formed city or town and its governing body shall be subject to the following as though the city or town were officially incorporated: RCW 4.24.470 relating to immunity; chapter 42.17 RCW relating to open government; chapter 40.14 RCW relating to the preservation and disposition of public records; chapters 42.20, 42.22, and 42.23 RCW relating to ethics and conflicts of interest; chapters 42.30 and 42.32 RCW relating to open public meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220, 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the publication of notices and ordinances; RCW 35.21.875 and 35A.21.230 relating to the designation of an official newspaper; RCW 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352, and 35A.40.210, as appropriate, and statutes referenced therein relating to public contracts and bidding; and chapter 39.34 RCW relating to interlocal cooperation. Tax anticipation or revenue anticipation notes or warrants and other short-term obligations may be issued and funds may be borrowed on the security of these instruments during this interim period, as provided in chapter 39.50 RCW. Funds also may be borrowed from federal, state, and other governmental agencies in the same manner as if the city or town were officially incorporated.

RCW 84.52.020 and 84.52.070 shall apply to the extent that they may be applicable, and the governing body of such city or town may take appropriate action

by ordinance during the interim period to adopt the property tax levy for its first full calendar year following the interim period.

The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. An interim city manager or administrator, who shall have such administrative powers and duties as are delegated by the governing body, may be appointed to serve only until the official date of incorporation. After the official date of incorporation the governing body of such a new city organized under the council manager form of government may extend the appointment of such an interim manager or administrator with such limited powers as the governing body determines, for up to ninety days. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation: PROVIDED, That if the date of the next general municipal election is less than twelve months after the date of the first election of councilmembers, those initially elected councilmembers shall serve until their successors are elected and qualified at the next following general municipal election as provided in RCW 29.04.170. For purposes of this section, the general municipal election shall be the date on which city and town general elections are held throughout the state of Washington, pursuant to RCW 29.13.020.

The official date of incorporation shall be on a date from one hundred eighty to three hundred sixty days after the date of the election on the question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be three hundred sixty days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice

with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation. [1991 c 360 § 3; 1986 c 234 § 16; 1965 c 7 § 35.02.130. Prior: 1953 c 219 § 7; 1890 p 133 § 3, part; RRS § 8885, part.]

*Times for holding elections: Chapter 29.13 RCW.*

**35.02.132 Newly incorporated city or town—**  
**Budgets.** The newly elected officials shall adopt an interim budget for the interim period or until January 1 of the following year, whichever occurs first. A second interim budget shall be adopted for any period between January 1 and the official date of incorporation. These interim budgets shall be adopted in consultation with the office of the state auditor, division of municipal corporations.

The governing body shall adopt a budget for the newly incorporated city or town for the period between the official date of incorporation and January 1 of the following year. The mayor or governing body, whichever is appropriate shall prepare or the governing body may direct the interim city manager to prepare a preliminary budget in detail to be made public at least sixty days before the official date of incorporation as a recommendation for the final budget. The mayor, governing body, or the interim city manager shall submit as a part of the preliminary budget a budget message that contains an explanation of the budget document, an outline of the recommended financial policies and programs of the city or town for the ensuing fiscal year, and a statement of the relation of the recommended appropriation to such policies and programs. Immediately following the release of the preliminary budget, the governing body shall cause to be published a notice once each week for two consecutive weeks of a public hearing to be held at least twenty days before the official date of incorporation on the fixing of the final budget. Any taxpayer may appear and be heard for or against any part of the budget. The governing body may make such adjustments and changes as it deems necessary and may adopt the final budget at the conclusion of the public hearing or at any time before the official date of incorporation. [1991 c 360 § 4.]

**35.02.135 Newly incorporated city or town—May borrow from municipal sales and use tax equalization account.** Upon the certification of election of officers, the governing body may by resolution borrow money from the municipal sales and use tax equalization account, up to one hundred thousand dollars or five dollars per capita based on the population estimate required by RCW 35.02.030, whichever is less.

The loan authorized by this section shall be repaid over a three-year period. The state treasurer shall withhold moneys from the funds otherwise payable to the city or town that has obtained such a loan, either from the municipal sales and use tax equalization account or

from sales and use tax entitlements otherwise distributable to such city or town, so that the account is fully reimbursed over the three-year period. The state treasurer shall adopt by rule procedures to accomplish the purpose of this section on a reasonable and equitable basis over the three-year period. [1991 c 360 § 5.]

**35.02.137 Newly incorporated city or town—Moratoria on development permits and approvals.** During the interim period, the governing body of the newly formed city or town may adopt resolutions establishing moratoria during the interim transition period on the filing of applications with the county for development permits or approvals, including, but not limited [to], subdivision approvals, short subdivision approvals, and building permits. [1991 c 360 § 11.]

**35.02.202 Annexation of fire protection district—Delay of transfer.** During the interim period, the governing body of the newly formed city or town and the board of fire commissioners may by written agreement delay the transfer of the district's assets and liabilities, and the city's or town's responsibility for the provision of fire protection, that would otherwise occur under RCW 35.02.190 or 35.02.200 for up to one year after the official date of incorporation. During the one-year period, the fire protection district may annex the city or town pursuant to chapter 52.04 RCW and retain the responsibility for fire protection. [1991 c 360 § 7.]

**35.02.210 Fire protection district and library district—Continuation of services at option of city or town.** At the option of the governing body of a newly incorporated city or town, any fire protection district or library district serving any part of the area so incorporated shall continue to provide services to such area until the city or town receives its own property tax receipts. [1991 c 360 § 8; 1986 c 234 § 21; 1967 ex.s. c 119 § 35A.03.160. Formerly RCW 35A.03.160.]

**35.02.220 Duty of county and road, library, and fire districts to continue services during transition period—Road maintenance and law enforcement services.** The approval of an incorporation by the voters of a proposed city or town, and the existence of a transition period to become a city or town, shall not remove the responsibility of any county, road district, library district, or fire district, within which the area is located, to continue providing services to the area until the official date of the incorporation.

A county shall continue to provide the following services to a newly incorporated city or town, or that portion of the county within which the newly incorporated city or town is located, at the preincorporation level as follows:

(1) Law enforcement services shall be provided for a period not to exceed sixty days from the official date of the incorporation or until the city or town is receiving or could have begun receiving sales tax distributions under RCW 82.14.030(1), whichever is the shortest time period.

(2) Road maintenance shall be for a period not to exceed sixty days from the official date of the incorporation or until forty percent of the anticipated annual tax distribution from the road district tax levy is made to the newly incorporated city or town pursuant to RCW 35.02.140, whichever is the shorter time period. [1991 c 360 § 9; 1986 c 234 § 22; 1985 c 143 § 1. Formerly RCW 35.21.763.]

**35.02.260 Duty of department of community development to assist newly incorporated cities and towns.** The department of community development shall identify federal, state, and local agencies that should receive notification that a new city or town is about to incorporate and shall assist newly formed cities and towns during the interim period before the official date of incorporation in providing such notification to the identified agencies. [1991 c 360 § 6.]

**35.02.270 Other local governments and state agencies—May assist newly incorporated cities and towns.** Cities, towns, counties, and other local government agencies and state agencies may make loans of staff and equipment, and technical and financial assistance to the newly formed city or town during the interim period to facilitate the transition to an incorporated city or town. Such loans and assistance may be without compensation. [1991 c 360 § 12.]

## Chapter 35.13

### ANNEXATION OF UNINCORPORATED AREAS

#### Sections

35.13.005	Annexations beyond urban growth areas prohibited.
35.13.125	Petition method—Commencement of proceedings—Notice to legislative body—Meeting—Assumption of indebtedness—Comprehensive plan.
35.13.130	Petition method—Petition—Signers—Content.

**35.13.005 Annexations beyond urban growth areas prohibited.** No city or town located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area. [1990 1st ex.s. c 17 § 30.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**35.13.125 Petition method—Commencement of proceedings—Notice to legislative body—Meeting—Assumption of indebtedness—Comprehensive plan.** Proceedings for the annexation of territory pursuant to RCW 35.13.130, 35.13.140, 35.13.150, 35.13.160 and 35.13.170 shall be commenced as provided in this section. Prior to the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW 28A.335.110, shall be either not less than ten percent of the residents of the area to be annexed or the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, shall notify the legislative body of the city or town in writing of their

intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the city or town will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of the comprehensive plan if such plan has been prepared and filed for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and whether it shall require the assumption of all or of any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a comprehensive plan, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate this fact. There shall be no appeal from the decision of the legislative body. [1990 c 33 § 565; 1989 c 351 § 3; 1973 1st ex.s. c 164 § 11; 1971 c 69 § 1; 1965 ex.s. c 88 § 10; 1965 c 7 § 35.13.125. Prior: 1961 c 282 § 18.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1971 c 69:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 69 § 5.]

**35.13.130 Petition method—Petition—Signers—Content.** A petition for annexation of an area contiguous to a city or town may be made in writing addressed to and filed with the legislative body of the municipality to which annexation is desired. Except where all the property sought to be annexed is property of a school district, and the school directors thereof file the petition for annexation as in RCW 28A.335.110 authorized, the petition must be signed by the owners of not less than seventy-five percent in value according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That in cities and towns with populations greater than one hundred sixty thousand located east of the Cascade mountains, the owner of tax exempt property may sign an annexation petition and have the tax exempt property annexed into the city or town, but the value of the tax exempt property shall not be used in calculating the sufficiency of the required property owner signatures unless only tax exempt property is proposed to be annexed into the city or town. The petition shall set forth a description of the property according to government legal subdivisions or legal plats which is in compliance with RCW 35.02.170, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or of any portion of city or town indebtedness by the area annexed, and/or the adoption of a comprehensive plan for the area to be annexed, these facts, together with a quotation of the minute entry of such requirement or requirements shall be set forth in the petition. [1990 c 33 § 566; 1981 c 66 § 1; 1975 1st ex.s. c 220 § 8; 1973 1st ex.s. c 164 § 12; 1971 c 69 § 2; 1965 ex.s. c 88 § 11; 1965 c 7 § 35.13.130. Prior: 1961 c 282 § 19; 1945 c 128 § 3; Rem. Supp. 1945 § 8908–12.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1981 c 66:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 66 § 2.]

**Legislative finding, intent—1975 1st ex.s. c 220:** See note following RCW 35.02.170.

**Severability—1971 c 69:** See note following RCW 35.13.125.

## Chapter 35.20

### MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

#### Sections

35.20.200 Judges pro tempore.

**35.20.200 Judges pro tempore.** The mayor shall, from attorneys residing in the city and qualified to hold the position of judge of the municipal court as provided in RCW 35.20.170, appoint judges pro tempore who shall act in the absence of the regular judges of the court or in addition to the regular judges when the administration of justice and the accomplishment of the work of the court make it necessary. The mayor may appoint, as judges pro tempore, any full-time district court judges serving in the county in which the city is situated. The judges of the municipal court shall promulgate rules establishing general standards for the use of judges pro tempore. A copy of said rules shall be filed with the legislative authority of the city at the time of budget consideration. Such appointments of attorneys shall be made from a list of attorneys in accordance herewith furnished by the judges of the municipal court, which list shall contain not less than five names in addition to the number of judges pro tempore requested. Appointment of judges pro tempore shall be for the term of office of the regular judges unless sooner removed in the same manner as they were appointed. While acting as judge of the court judges pro tempore shall have all of the powers of the regular judges. Before entering upon his or her duties, each judge pro tempore shall take, subscribe and file an oath as is taken by a municipal judge. Judges pro tempore shall not practice before the municipal court during their term of office as judge pro tempore. Such municipal judges pro tempore shall receive such compensation as shall be fixed by ordinance by the legislative body of the city and such compensation shall be paid by the city except that district court judges shall not be compensated by the city other than pursuant to an interlocal agreement. [1990 c 182 § 1; 1972 ex.s. c 32 § 2; 1965 c 7 § 35.20.200. Prior: 1955 c 290 § 20.]

## Chapter 35.21

### MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

#### Sections

35.21.010 General corporate powers—Towns, restrictions as to area.

- 35.21.087 Employee checks, drafts, warrants—City, town may cash.
- 35.21.135 Solid waste or recyclable materials collection—Curbside recycling—Reduced rate.
- 35.21.300 Utility services—Enforcement of lien—Limitations on termination of service for residential heating.
- 35.21.301 Expired.
- 35.21.422 Utilities—Cities in a county with a population of two hundred ten thousand or more west of Cascades may support cities, towns, counties and taxing districts in which facilities located.
- 35.21.692 Authority to regulate massage practitioners—Limitations.
- 35.21.747 Public corporations—Real property transferred by city, town, or county—Restrictions, notice, public meeting.
- 35.21.755 Public corporations—Exemption or immunity from taxation—In lieu excise tax.

**35.21.010 General corporate powers—Towns, restrictions as to area.** Municipal corporations now or hereafter organized are bodies politic and corporate under the name of the city of \_\_\_\_\_, or the town of \_\_\_\_\_, as the case may be, and as such may sue and be sued, contract or be contracted with, acquire, hold, possess and dispose of property, subject to the restrictions contained in other chapters of this title, having a common seal, and change or alter the same at pleasure, and exercise such other powers, and have such other privileges as are conferred by this title: PROVIDED, That not more than two square miles in area shall be included within the corporate limits of a town having a population of fifteen hundred or less, or located in a county with a population of one million or more, and not more than three square miles in area shall be included within the corporate limits of a town having a population of more than fifteen hundred in a county with a population of less than one million, nor shall more than twenty acres of unplatted land belonging to any one person be taken within the corporate limits of a town without the consent of the owner of such unplatted land: PROVIDED FURTHER, That the original incorporation of a town shall be limited to an area of not more than one square mile and a population as prescribed in RCW 35.01.040. [1991 c 363 § 37; 1965 c 138 § 1; 1965 c 7 § 35.21.010. Prior: 1963 c 119 § 1; 1890 p 141 § 15, part; RRS § 8935.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Validation of certain incorporations and annexations—Municipal corporations of the fourth class—1961 ex.s. c 16:** "Any incorporation of a municipal corporation of the fourth class and any annexation of territory to a municipal corporation of the fourth class prior to March 31, 1961, which is otherwise valid except for compliance with the limitation to the area of one square mile as prescribed by section 15, page 141, Laws of 1889–90, is hereby validated and declared to be a valid incorporation or annexation in all respects." [1961 ex.s. c 16 § 1.]

**35.21.087 Employee checks, drafts, warrants—City, town may cash.** Any city or town is hereby authorized, at its option and after the adoption of the appropriate ordinance, to accept in exchange for cash a payroll check, draft, or warrant; expense check, draft, or warrant; or personal check from a city or town employee in accordance with the following conditions:

(1) The check, warrant, or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(2) The person presenting the check, draft, or warrant to the city or town must produce identification as outlined by the city or town in the authorizing ordinance;

(3) The payroll check, draft, or warrant or expense check, draft, or warrant must have been issued by the city or town; and

(4) Personal checks cashed pursuant to this authorization cannot exceed two hundred dollars.

In the event that any personal check cashed for a city or town employee by the city or town under this section is dishonored by the drawee financial institution when presented for payment, the city or town is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next payroll check, draft, or warrant the full amount of the dishonored check. [1991 c 185 § 1.]

**35.21.135 Solid waste or recyclable materials collection—Curbside recycling—Reduced rate.** (1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090, may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection. [1991 c 319 § 404.]

**Severability—Part headings not law—1991 c 319:** See RCW 70.95F.900 and 70.95F.901.

**35.21.300 Utility services—Enforcement of lien—Limitations on termination of service for residential heating.** (1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid, except that until June 30, 1991, utility service for residential space heating may be terminated between November 15 and March 15 only as provided in subsections (2) and (4) of this section. In the event of a disputed account and tender by the owner of the premises of the amount he claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

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

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment

overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of community development which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information in the self-certification;

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

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

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

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

(3) The utility shall:

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

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

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

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are

disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(4) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(5) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter. [1991 c 165 § 2; 1990 1st ex.s. c 1 § 1; 1987 c 356 § 1; 1986 c 245 § 1; 1985 c 6 § 3; 1984 c 251 § 1; 1965 c 7 § 35.21.300. Prior: 1909 c 161 § 2; RRS § 9472.]

**Findings**—1991 c 165: "The legislature finds that the health and welfare of the people of the state of Washington require that all citizens receive essential levels of heat and electric service regardless of economic circumstance and that rising energy costs have had a negative effect on the affordability of housing for low-income citizens and have made it difficult for low-income citizens of the state to afford adequate fuel for residential space heat. The legislature further finds that level payment plans, the protection against winter heating shutoff, and house weatherization programs have all been beneficial to low-income persons." [1991 c 165 § 1.]

**35.21.301 Expired.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**35.21.422 Utilities—Cities in a county with a population of two hundred ten thousand or more west of Cascades may support cities, towns, counties and taxing districts in which facilities located.** Any city, located within a county with a population of two hundred ten thousand or more west of the Cascades, owning and operating a public utility and having facilities for the distribution of electricity located outside its city limits, may provide for the support of cities, towns, counties and taxing districts in which such facilities are located, and enter into contracts with such county therefor. Such contribution shall be based upon the amount of retail sales of electricity, other than to governmental agencies, made by such city in the areas of such cities, towns, counties or taxing districts in which such facilities are located, and shall be divided among them on the same basis as taxes on real and personal property therein are divided. [1991 c 363 § 38; 1967 ex.s. c 52 § 1.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**35.21.692 Authority to regulate massage practitioners—Limitations.** (1) A state licensed massage practitioner seeking a city or town license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city or town may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city or town.

(3) A state licensed massage practitioner is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists. [1991 c 182 § 1.]

**35.21.747 Public corporations—Real property transferred by city, town, or county—Restrictions, notice, public meeting.** (1) In transferring real property to a public corporation, commission, or authority under RCW 35.21.730, the city, town, or county creating such public corporation, commission, or authority shall impose appropriate deed restrictions necessary to ensure the continued use of such property for the public purpose or purposes for which such property is transferred.

(2) The city, town, or county that creates a public corporation, commission, or authority under RCW 35.21.730 shall require of such public corporation, commission, or authority thirty days' advance written notice of any proposed sale or encumbrance of any real property transferred by such city, town, or county to such public corporation, commission, or authority pursuant to RCW 35.21.730(1). At a minimum, such notice shall be provided by such public corporation, commission, or authority to the chief executive or administrative officer of such city, town, or county, and to all members of its legislative body, and to each local newspaper of general circulation, and to each local radio or television station or other news medium which has on file with such corporation, commission, or authority a written request to be notified.

(3) Any property transferred by the city, town, or county that created such public corporation, commission, or authority may be sold or encumbered by such public corporation, commission, or authority only after approval of such sale or encumbrance by the governing body of the public corporation, commission, or authority at a public meeting of which notice was provided pursuant to RCW 42.30.080. Nothing in this section shall be construed to prevent the governing body of the public corporation, commission, or authority from holding an executive session during a regular or special meeting in accordance with RCW 42.30.110(1)(c). In addition, the public corporation, commission, or authority shall advertise notice of the meeting in a local newspaper of general circulation at least twice no less than seven days and no more than two weeks before the public meeting. [1990 c 189 § 1.]

**35.21.755 Public corporations—Exemption or immunity from taxation—In lieu excise tax.** (1) A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned or operated by a public corporation that is used primarily for low-income housing, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community development. [1990 c 131 § 1; 1987 c 282 § 1; 1985 c 332 § 5; 1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

**Effective date—1979 ex.s. c 196:** See note following RCW 82.04.240.

**Effective date—1977 ex.s. c 35:** "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 35 § 2.]

## Chapter 35.22 FIRST CLASS CITIES

### Sections

35.22.280 Specific powers enumerated.

**35.22.280 Specific powers enumerated.** Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to

the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof. Whenever the words "public markets" are used in this chapter, and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety

of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: PROVIDED, That no license shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or

to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for one year, or both such fine and imprisonment. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto. [1990 c 189 § 3; 1986 c 278 § 3; 1984 c 258 § 802; 1977 ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

**Severability—1986 c 278:** See note following RCW 36.01.010.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Severability—1977 ex.s. c 316:** See note following RCW 70.48.020.

## Chapter 35.23 SECOND CLASS CITIES

### Sections

35.23.460 Employees' group insurance—False arrest insurance.  
(Effective January 1, 1992.)

**35.23.460 Employees' group insurance—False arrest insurance. (Effective January 1, 1992.)** Subject to chapter 48.62 RCW, any city of the second or third class or town may contract with an insurance company authorized to do business in this state to provide group insurance for its employees including group false arrest insurance for its law enforcement personnel, and pursuant thereto may use a portion of its revenues to pay an employer's portion of the premium for such insurance, and may make deductions from the payrolls of employees for the amount of the employees' contribution and may apply the amount deducted in payment of the employees' portion of the premium. [1991 1st sp.s. c 30 § 19; 1965 c 7 § 35.23.460. Prior: 1963 c 127 § 1; 1947 c 162 § 1; RRS § 9592–160.]

**Effective date, implementation, application—Severability—1991 1st sp.s. c 30:** See RCW 48.62.900 and 48.62.901.

## Chapter 35.24 THIRD CLASS CITIES

### Sections

35.24.090 Compensation of officers—Expenses—Nonstate pensions.

**35.24.090 Compensation of officers—Expenses—Nonstate pensions.** The mayor and the members of the city council may be reimbursed for actual expenses incurred in the discharge of their official duties, upon presentation of a claim therefor, after allowance and approval thereof, by resolution of the city council; and each city councilmember may be paid for attending council meetings an amount which shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent.

The city attorney, clerk and treasurer, if elective, shall severally receive at stated times a compensation to be fixed by ordinance by the city council.

The mayor and other officers shall receive such compensation as may be fixed by the city council at the time the estimates are made as provided by law.

Any city that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the city by the auditor. No city may establish a pension plan for its employees that is not administered by the state, except that any defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No city that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990. [1990 c 212 § 1; 1973 1st ex.s. c 87 § 1; 1969 ex.s. c 270 § 8; 1965 c 105 § 1; 1965 c 7 § 35.24.090. Prior: 1961 c 89 § 7; 1941 c 115 § 1; 1915 c 184 § 7; 1893 c 70 § 2; 1890 p 180 § 109; Rem. Supp. 1941 § 9120.]

## Chapter 35.27 TOWNS

### Sections

35.27.130 Compensation of officers—Expenses—Nonstate pensions.

**35.27.130 Compensation of officers—Expenses—Nonstate pensions.** The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers shall be fixed from time to time by the council.

Any town that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the town by the auditor. No town may establish a pension plan for its employees that is not administered by the state, except that any defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No town that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990. [1990 c 212 § 2; 1973 1st ex.s. c 87 § 2; 1969 ex.s. c 270 § 9; 1965 c 105 § 2; 1965 c 7 § 35.27.130. Prior: 1961 c 89 § 5; prior: (i) 1941 c 115 § 2; 1890 p 200 § 147; Rem. Supp. 1941 § 9168. (ii) 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part. (iii) 1890 p 214 § 173; RRS § 9191. (iv) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; RRS § 9165, part.]

### Chapter 35.33

#### BUDGETS IN SECOND AND THIRD CLASS CITIES, TOWNS AND FIRST CLASS CITIES UNDER 300,000

##### Sections

35.33.123 Administration, oversight, or supervision of utility—  
Reimbursement from utility budget authorized.

**35.33.123 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized.** Whenever any city or town apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city or town, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's or town's current expense fund for the value of such services. [1991 c 152 § 1.]

### Chapter 35.34

#### BIENNIAL BUDGETS

##### Sections

35.34.205 Administration, oversight, or supervision of utility—  
Reimbursement from utility budget authorized.

**35.34.205 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized.** Whenever any city or town apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city or town, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's or town's current expense fund for the value of such services. [1991 c 152 § 2.]

### Chapter 35.42

#### LEASES

##### Sections

35.42.200 Leases authorized—Ballot proposition.

**35.42.200 Leases authorized—Ballot proposition.** Any city or town may execute leases for a period of years with or without an option to purchase with the state or any of its political subdivisions, with the government of the United States, or with any private party for the lease of any real or personal property, or property rights: PROVIDED, That with respect only to leases that finance the acquisition of property by the lessee, the aggregated portions of lease payments over the term of the lease which are allocable to principal shall constitute debt, which shall not result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town computed in accordance with RCW 39.36.030, unless a proposition in regard to whether or not such a lease may be executed is submitted to the voters for their approval or rejection in the same manner that bond issues for capital purposes are submitted, and the voters approve the same. [1990 c 205 § 1; 1965 c 7 § 35.42.200. Prior: 1963 c 170 § 1.]

### Chapter 35.58

#### METROPOLITAN MUNICIPAL CORPORATIONS

##### Sections

35.58.040 Territory which must be included or excluded—  
Boundaries.

35.58.2721 Public transportation systems—Authority of municipalities to acquire, operate, etc.—Indebtedness—  
Bond issues.

35.58.273 Public transportation systems—Motor vehicle excise tax authorized—Credits—Public hearing on route and design.

35.58.2795 Public transportation systems—Municipalities to prepare six-year transit program.

**35.58.040 Territory which must be included or excluded—Boundaries.** At the time of its formation no metropolitan municipal corporation shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such corporation. If subsequent to the formation of a metropolitan municipal corporation a part only of any city shall be included within the boundaries of a metropolitan municipal corporation such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the metropolitan council pursuant to RCW 35.58.120(3) and such city shall neither select nor participate in the selection of a member on the metropolitan council pursuant to RCW 35.58.120.

Any metropolitan municipal corporation now existing or hereafter created, within a county with a population of from two hundred ten thousand to less than one million bordering a county with a population of one million or more, or within a county with a population of one million or more, shall, upon May 21, 1971, as to metropolitan corporations existing on such date or upon the

date of formation as to metropolitan corporations formed after May 21, 1971, have the same boundaries as those of the respective central county of such metropolitan corporation: PROVIDED, That the boundaries of such metropolitan corporation may be enlarged after such date by annexation as provided in chapter 35.58 RCW as now or hereafter amended. Any contiguous metropolitan municipal corporations may be consolidated into a single metropolitan municipal corporation upon such terms, for the purpose of performing such metropolitan function or functions, and to be effective at such time as may be approved by resolutions of the respective metropolitan councils. In the event of such consolidation the component city with the largest population shall be the central city of such consolidated metropolitan municipal corporation and the component county with the largest population shall be the central county of such consolidated metropolitan municipal corporation. [1991 c 363 § 39; 1971 ex.s. c 303 § 3; 1967 c 105 § 1; 1965 c 7 § 35.58.040. Prior: 1957 c 213 § 4.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**35.58.2721 Public transportation systems—Authority of municipalities to acquire, operate, etc.—Indebtedness—Bond issues.** (1) In addition to any other authority now provided by law, and subject only to constitutional limitations, the governing body of any municipality shall be authorized to acquire, construct, operate, and maintain a public transportation system and additions and betterments thereto, and to issue general obligation bonds for public mass transportation capital purposes including but not limited to replacement of equipment: PROVIDED, That the general indebtedness incurred under this section when considered together with all the other outstanding general indebtedness of the municipality shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW and chapter 35.58 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Any municipality is authorized to pledge for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes all or any portion of any taxes authorized to be levied by the issuer, including, but not limited to, the local sales and use tax authorized pursuant to RCW 82.14.045, as now or hereafter amended. No motor vehicle excise taxes under RCW 35.58.273 may be pledged for bonds.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1990 c 42 § 315; 1983 c 167 § 46; 1979 ex.s. c 175 § 1; 1975 1st ex.s. c 270 § 7.]

**Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42:** See notes following RCW 82.36.025.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**Severability—Effective date—1975 1st ex.s. c 270:** See notes following RCW 35.58.272.

*Financing of public transportation systems in metropolitan municipal corporations: Chapter 35.95 RCW and RCW 82.14.045.*

**35.58.273 Public transportation systems—Motor vehicle excise tax authorized—Credits—Public hearing on route and design.** (1) Through June 30, 1992, any municipality, as defined in this subsection, is authorized to levy and collect a special excise tax not exceeding .7824 percent and beginning July 1, 1992, .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020. As used in this subsection, the term "municipality" means a municipality that is located within (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under subsection (a) of this subsection.

(2) Through June 30, 1992, any other municipality is authorized to levy and collect a special excise tax not exceeding .815 percent, and beginning July 1, 1992, .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020. Before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

(3) A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and

alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

(4) A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs. [1991 c 339 § 29; 1991 c 309 § 1; (1991 c 363 § 40 repealed by 1991 c 309 § 6); 1990 c 42 § 316; 1987 c 428 § 2; 1979 ex.s. c 175 § 2; 1969 ex.s. c 255 § 8.]

**Reviser's note:** This section was amended by 1991 c 309 § 1 and by 1991 c 339 § 29, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42:** See notes following RCW 82.36.025.

**Effective date—1987 c 428:** See note following RCW 47.78.010.  
*Administrative procedure act: Chapter 34.05 RCW.*

**35.58.2795 Public transportation systems—Municipalities to prepare six-year transit program.** By April 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, shall prepare a six-year transit development and financial program for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. Each municipality shall file the six-year program with the state department of transportation, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan approved by the state transportation commission and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update. [1990 1st ex.s. c 17 § 60; 1989 c 396 § 1.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

## Chapter 35.61

## METROPOLITAN PARK DISTRICTS

## Sections

35.61.210 Park district tax levy—"Park district fund".

**35.61.210 Park district tax levy—"Park district fund".** The board of park commissioners may levy or cause to be levied a general tax on all the property located in said park district each year not to exceed fifty cents per thousand dollars of assessed value of the property in such park district. In addition, the board of park commissioners may levy or cause to be levied a general tax on all property located in said park district each year not to exceed twenty-five cents per thousand dollars of assessed valuation. Although park districts are authorized to impose two separate regular property tax levies, the levies shall be considered to be a single levy for purposes of the one hundred six percent limitation provided for in chapter 84.55 RCW.

The board is hereby authorized to levy a general tax in excess of its regular property tax levy or levies when authorized so to do at a special election conducted in accordance with and subject to all the requirements of the Constitution and laws of the state now in force or hereafter enacted governing the limitation of tax levies. The board is hereby authorized to call a special election for the purpose of submitting to the qualified voters of the park district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The manner of submitting any such proposition, of certifying the same, and of giving or publishing notice thereof, shall be as provided by law for the submission of propositions by cities or towns.

The board shall include in its general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds and may include a sufficient amount to create a sinking fund for the redemption of all outstanding bonds. The levy shall be certified to the proper county officials for collection the same as other general taxes and when collected, the general tax shall be placed in a separate fund in the office of the county treasurer to be known as the "metropolitan park district fund" and paid out on warrants. [1990 c 234 § 3; 1973 1st ex.s. c 195 § 25; 1965 c 7 § 35.61.210. Prior: 1951 c 179 § 1; prior: (i) 1943 c 264 § 10, part; Rem. Supp. 1943 § 6741-10, part; prior: 1909 c 131 § 4; 1907 c 98 § 10; RRS § 6729. (ii) 1947 c 117 § 1; 1943 c 264 § 5; Rem. Supp. 1947 § 6741-5; prior: 1925 ex.s. c 97 § 1; 1907 c 98 § 5; RRS § 6724.]

**Severability—Effective dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

*Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55, 59), RCW 84.52.050.*

**Chapter 35.62**  
**NAME—CHANGE OF**

Sections	
35.62.020	Repealed.
35.62.021	Election—Petition or resolution.
35.62.030	Repealed.
35.62.031	Ballot—One name proposed.
35.62.040	Repealed.
35.62.041	Ballot—More than one name proposed—Votes necessary.
35.62.050	Repealed.

**35.62.020 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**35.62.021 Election—Petition or resolution.** The question of whether the name of a city or town shall be changed shall be presented to the voters of the city or town upon either: (1) The adoption of a resolution by the city or town council proposing a specific name change; or (2) the submission of a petition proposing a specific name change that has been signed by voters of the city or town equal in number to at least ten percent of the total number of voters of the city or town who voted at the last municipal general election. However, for any newly incorporated city or town that has not had city officials elected at a normal general municipal election, the election that is used as the base for determining the number of required signatures shall be the election at which the initial elected officials were elected.

The election on changing the name of the city or town shall be held at the next general election occurring sixty or more days after the resolution was adopted, or the resolution [petition] was submitted that has been certified by the county auditor as having sufficient valid signatures. [1990 c 193 § 1.]

**35.62.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**35.62.031 Ballot—One name proposed.** Where only one new name has been proposed by petition or resolution such question shall be in substantially the following form:

"Shall the name of the city (or town) of (insert name) be changed to the city (or town) of (insert the proposed new name)?"

Yes       
No     "

If a majority of the votes cast favor the name change, the city or town shall have its name changed effective thirty days after the certification of the election results. [1990 c 193 § 2.]

**35.62.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**35.62.041 Ballot—More than one name proposed—Votes necessary.** Where more than one name is proposed by either petition or resolution, the question shall be separated into two separate parts and shall be in substantially the following form:

"Shall the name of the city (or town) of (insert name) be changed?"

Yes       
No     "

"If a name change is approved, which of the following should be the new name?"

(insert name)  
(insert name)  
Vote for one."

Voters may select a name change whether or not they vote in favor of changing the name of the city or town. If a majority of the votes cast on the first proposition favor changing the name, the name that receives at least a majority of the total number of votes cast for an alternative name shall become the new name of the city or town effective thirty days after the certification of the election results.

If no alternative name receives a simple majority vote, then an election shall be held at the next November special election date, at which voters shall be given the option of choosing which of the two alternative names that received the most votes shall become the new name of the city or town. This ballot proposition shall be worded substantially as follows:

"Which of the following names shall become the new name of the city (or town) of (insert name)?"

(insert name)  
(insert name)  
Vote for one."

The name that receives the majority vote shall become the new name of the city or town effective thirty days after the certification of the election results. [1990 c 193 § 3.]

**35.62.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 35.63**

**PLANNING COMMISSIONS**

Sections	
35.63.125	Development regulations—Consistency with comprehensive plan.

**35.63.125 Development regulations—Consistency with comprehensive plan.** Beginning July 1, 1992, the development regulations of each city and county that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's or county's comprehensive plan.

For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030. [1990 1st ex.s. c 17 § 22.]

**Severability**—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

### Chapter 35.67

## SEWERAGE SYSTEMS—REFUSE COLLECTION AND DISPOSAL

#### Sections

35.67.020	Authority to construct system and fix rates and charges—Classification of services.
35.67.200	Sewerage lien—Authority.
35.67.215	Sewerage lien—Extension of coverage.

**35.67.020 Authority to construct system and fix rates and charges—Classification of services.** Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate, and control them and to fix, alter, regulate, and control the rates and charges for the use thereof: PROVIDED, That the rates charged must be uniform for the same class of customers or service.

In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; the location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the sewage delivered and the time of its delivery; the achievement of water conservation goals and the discouragement of wasteful water use practices; capital contributions made to the system, including but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. [1991 c 347 § 17; 1965 c 7 § 35.67.020. Prior: 1959 c 90 § 1; 1955 c 266 § 3; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

**Purposes**—1991 c 347: See note following RCW 90.42.005.

**Severability**—1991 c 347: See RCW 90.42.900.

**35.67.200 Sewerage lien—Authority.** Cities and towns owning their own sewer systems shall have a lien for delinquent and unpaid rates and charges for sewer service, penalties levied pursuant to RCW 35.67.190, and connection charges, including interest thereon, against the premises to which such service has been furnished or is available, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The city or town by ordinance may provide that delinquent charges shall bear interest at not exceeding eight percent per annum computed on a monthly basis: PROVIDED, That a city or

town using the property tax system for utility billing may, by resolution or ordinance, adopt the alternative lien procedure as set forth in RCW 35.67.215. [1991 c 36 § 2; 1965 c 7 § 35.67.200. Prior: 1959 c 90 § 4; prior: 1941 c 193 § 6, part; Rem. Supp. 1941 § 9354-9, part.]

### 35.67.215 Sewerage lien—Extension of coverage.

Any city or town may, by resolution or ordinance, provide that the sewerage lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor, in lieu of the provisions provided for in RCW 35.67.210. [1991 c 36 § 3.]

### Chapter 35.77

## STREETS—PLANNING, ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE

#### Sections

35.77.010	Perpetual advanced plans for coordinated street program—Six-year program for arterial street construction—Expenditures—Bicycle, pedestrian, and equestrian funds, expenditures.
-----------	---

*Local adopt-a-highway programs: RCW 47.40.105.*

**35.77.010 Perpetual advanced plans for coordinated street program—Six-year program for arterial street construction—Expenditures—Bicycle, pedestrian, and equestrian funds, expenditures.** (1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive street program for the ensuing six calendar years. If the city or town has adopted a comprehensive plan pursuant to chapter 35.63 or 35A.63 RCW, the inherent authority of a first class city derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall be filed with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city street needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive street program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated street construction program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year program of each city lying within an urban area shall contain a separate section setting forth the six-year program for arterial street construction based upon its long range construction plan and formulated in accordance with rules of the transportation improvement board. The six-year program for arterial

street construction shall be submitted to the transportation improvement board forthwith after its annual revision and adoption by the legislative body of the city. The six-year program for arterial street construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority may request for urban arterials from the urban arterial trust account or the transportation improvement account for the six-year period. The arterial street construction program shall provide for a more rapid rate of completion of the long-range construction needs of principal arterial streets than for minor and collector arterial streets, pursuant to rules of the transportation improvement board: PROVIDED, That urban arterial trust funds made available to the group of incorporated cities lying outside the boundaries of federally approved urban areas within each region need not be divided between functional classes of arterials but shall be available for any designated arterial street.

(2) Each six-year program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycle, pedestrian, and equestrian purposes. [1990 1st ex.s. c 17 § 59; 1988 c 167 § 6; 1984 c 7 § 23; 1977 ex.s. c 317 § 7; 1975 1st ex.s. c 215 § 1; 1967 ex.s. c 83 § 27; 1965 c 7 § 35.77.010. Prior: 1961 c 195 § 2.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**Savings—Severability—1988 c 167:** See notes following RCW 47.26.121.

**Severability—1984 c 7:** See note following RCW 47.01.141.

**Effective dates—Severability—1977 ex.s. c 317:** See notes following RCW 82.36.010.

**Severability—Effective dates—1967 ex.s. c 83:** See RCW 47.26.900 and 47.26.910.

*Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.*

*Joint planning of urban arterial development: RCW 47.26.230.*

*Long-range arterial construction plans, counties and cities to prepare: RCW 47.26.170.*

*Perpetual advanced plans for coordinated county road program: RCW 36.81.121.*

*Priority projects to be selected in preparation of six-year program: RCW 47.26.220.*

*Transportation improvement board: Chapter 47.26 RCW.*

## Chapter 35.81

### URBAN RENEWAL LAW

#### Sections

35.81.010 Definitions.

**35.81.010 Definitions.** The following terms wherever used or referred to in this chapter, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" shall mean a public agency created by RCW 35.81.160.

(2) "Blighted area" shall mean an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate or mixed uses of land or buildings; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or constitutes an economic or social liability, and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, and morals in its present condition and use.

(3) "Bonds" shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

(4) "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

(5) "Federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(6) "Local governing body" shall mean the council or other legislative body charged with governing the municipality.

(7) "Mayor" shall mean the chief executive of a city or town, or the elected executive, if any, of any county operating under a charter, or the county legislative authority of any other county.

(8) "Municipality" shall mean any incorporated city or town, or any county, in the state.

(9) "Obligee" shall include any bondholder, agent or trustee for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

(10) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or school district; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(11) "Public body" shall mean the state or any municipality, township, board, commission, district, or any other subdivision or public body of the state.

(12) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

(13) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(14) "Redevelopment" may include (a) acquisition of a blighted area or portion thereof; (b) demolition and removal of buildings and improvements; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter in accordance with the urban renewal plan, and (d) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

(15) "Rehabilitation" may include the restoration and renewal of a blighted area or portion thereof, in accordance with an urban renewal plan, by (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter; and (d) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

(16) "Urban renewal area" means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

(17) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (a) shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and (b) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(18) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in an urban renewal area, or rehabilitation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. [1991 c 363 § 41; 1975 c 3 § 1; 1971 ex.s. c 177 § 6; 1965 c 7 § 35.81.010. Prior: 1957 c 42 § 1.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

## Chapter 35.82

### HOUSING AUTHORITIES LAW

#### Sections

35.82.070	Powers of authority.
35.82.130	Bonds.
35.82.285	Group homes or halfway houses for released juveniles or developmentally disabled.

**35.82.070 Powers of authority.** An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments, including but not limited to partnership agreements and joint venture agreements, necessary or convenient to the exercise of the powers of the authority; to participate in the organization or the operation of a nonprofit corporation which has as one of its purposes to provide or assist in the provision of housing for persons of low income; and to make and from time to time amend and repeal by-laws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To acquire, lease, rent, sell, or otherwise dispose of any commercial space located in buildings or structures containing a housing project or projects.

(4) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a

housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(5) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own or manage buildings containing a housing project or projects as well as commercial space or other dwelling units that do not constitute a housing project as that term is defined in this chapter: PROVIDED, That notwithstanding the provisions under subsection (1) of this section, dwelling units made available to persons of low income, together with functionally related and subordinate facilities, shall occupy at least thirty percent of the interior space of any individual building other than a detached single-family or duplex residential building or mobile or manufactured home and at least fifty percent of the interior space in the total development owned by the authority or at least fifty percent of the total number of units in the development owned by the authority, whichever produces the greater number of units for persons of low income, and for mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park owned by the authority; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to sell, lease, exchange, transfer, or dispose of any real or personal property or interest therein at less than fair market value to a governmental entity for any purpose when such action assists the housing authority in carrying out its powers and purposes under this chapter, to a low-income person or family for the purpose of providing housing for that person or family, or to a nonprofit corporation provided the nonprofit corporation agrees to sell the property to a low-income person or family or to use the property for the provision of housing for persons of low income for at least twenty years; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(6) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(7) Within its area of operation: To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(8) Acting through one or more commissioners or other person or persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(9) To initiate eviction proceedings against any tenant as provided by law. Activity occurring in any housing authority unit that constitutes a violation of chapter 69.41, 69.50 or 69.52 RCW shall constitute a nuisance for the purpose of RCW 59.12.030(5).

(10) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(11) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(12) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: PROVIDED, HOWEVER, The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution

declaring that there is a need for the authority to function in such territory.

(13) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(14) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(15) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party.

(16) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease, or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(17) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing, or refinancing of land, buildings, or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(a) Any development financed under this subsection shall be subject to an agreement that for at least twenty years the dwelling units made available to persons of low income together with functionally related and subordinate facilities shall occupy at least thirty percent of the interior space of any individual building other than a detached single-family or duplex residential building or mobile or manufactured home and shall occupy at least fifty percent of the interior space in the total development or at least fifty percent of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park. During the term of the agreement, the owner shall use its best efforts in good faith to maintain the dwelling units or mobile home lots required to be made available to persons of low income at rents affordable to persons of low income.

(b) In addition, if the development is owned by a for-profit entity, the dwelling units or mobile home lots required to be made available to persons of low income shall be rented to persons whose incomes do not exceed fifty percent of the area median income, adjusted for household size, and shall have unit or lot rents that do not exceed fifteen percent of area median income, adjusted for household size, unless rent subsidies are provided to make them affordable to persons of low income.

For purposes of this subsection (17)(b), if the development is owned directly or through a partnership by a governmental entity or a nonprofit organization, which nonprofit organization is itself not controlled by a for-profit entity or affiliated with any for-profit entity that a nonprofit organization itself does not control, it shall not be treated as being owned by a for-profit entity when the governmental entity or nonprofit organization exercises legal control of the ownership entity and in addition, (i) the dwelling units or mobile home lots required to be made available to persons of low income are rented to persons whose incomes do not exceed sixty percent of the area median income, adjusted for household size, and (ii) the development is subject to an agreement that transfers ownership to the governmental entity or nonprofit organization or extends an irrevocable right of first refusal to purchase the development under a formula for setting the acquisition price that is specified in the agreement.

(c) Commercial space in any building financed under this subsection that exceeds four stories in height shall not constitute more than twenty percent of the interior area of the building. Before financing any development under this subsection the authority shall make a written finding that financing is important for project feasibility or necessary to enable the authority to carry out its powers and purposes under this chapter.

(18) To contract with a public authority or corporation, created by a county, city, or town under RCW 35.21.730 through 35.21.755, to act as the developer for new housing projects or improvement of existing housing projects. [1991 c 167 § 1; 1989 c 363 § 2; 1985 c 386 § 1; 1983 c 225 § 2; 1977 ex.s. c 274 § 2; 1965 c 7 § 35.82.070. Prior: 1945 c 43 § 1; 1939 c 23 § 8; Rem. Supp. 1945 § 6889-8. Formerly RCW 74.24.070.]

**Severability**—1983 c 225: See note following RCW 35.82.020.

**35.82.130 Bonds.** An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; (2) exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (3) from all or part of its revenues or assets generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority. Any pledge made by the authority shall be valid and binding from the time when the pledge is made and recorded; the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without

any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. The resolution and any other instrument by which a pledge is created shall be filed or recorded.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the state or any political subdivision thereof and neither the city or the county, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. Nothing in this section shall prevent an authority from issuing bonds the interest on which is included in gross income of the owners thereof for income tax purposes. [1991 c 167 § 2; 1977 ex.s. c 274 § 5; 1965 c 7 § 35.82.130. Prior: 1939 c 23 § 14; RRS § 6889-14. Formerly RCW 74.24.130.]

**35.82.285 Group homes or halfway houses for released juveniles or developmentally disabled.** Housing authorities created under this chapter may establish and operate group homes or halfway houses to serve juveniles released from state juvenile or correctional institutions, or to serve the developmentally disabled as defined in RCW 71A.10.020(2). Authorities may contract for the operation of facilities so established, with qualified non-profit organizations as agent of the authority. Authorities may provide support or supportive services in facilities serving juveniles, the developmentally disabled or other persons under a disability, and the frail elderly, whether or not they are operated by the authority.

Action under this section shall be taken by the authority only after a public hearing as provided by chapter 42.30 RCW. In exercising this power the authority shall not be empowered to acquire property by eminent domain, and the facilities established shall comply with all zoning, building, fire, and health regulations and procedures applicable in the locality. [1991 c 167 § 3; 1973 1st ex.s. c 198 § 2.]

**Effective date—1973 1st ex.s. c 198:** See note following RCW 13.06.050.

### Chapter 35.83

## HOUSING COOPERATION LAW

Sections  
35.83.020 Definitions.

35.83.030 Cooperation in undertaking housing projects.

**35.83.020 Definitions.** The following terms, whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Housing authority" shall mean any housing authority created pursuant to the housing authorities law of this state.

(2) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the housing authorities law or any similar work or undertaking of the federal government.

(3) "State public body" shall mean the state of Washington and any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) "Governing body" shall mean the council, the commission, board of county commissioners or other body having charge of the fiscal affairs of the state public body.

(5) "Federal government" shall include the United States of America, the United States housing authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America. [1991 c 167 § 4; 1965 c 7 § 35.83.020. Prior: 1939 c 24 § 3; RRS § 6889-33. Formerly RCW 74.28.020.]

**35.83.030 Cooperation in undertaking housing projects.** For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, grant, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the federal government;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(4) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

(5) Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish;

(6) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings;

(7) Employ (notwithstanding the provisions of any other law) any funds belonging to or within the control

of such state public body, including funds derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority; and exercise all the rights of any holder of such bonds or other obligations;

(8) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(9) Incur the entire expense of any public improvements made by such state public body in exercising the powers granted in this chapter;

(10) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, advertisement or public bidding: PROVIDED, There must be five days public notice given either by posting in three public places or publishing in the official county newspaper of the county wherein the property is located; and

(11) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction. [1991 c 167 § 5; 1965 c 7 § 35.83-.030. Prior: 1939 c 24 § 4; RRS § 6889-34. Formerly RCW 74.28.030.]

## Chapter 35.92

### MUNICIPAL UTILITIES

#### Sections

35.92.010	Authority to acquire and operate waterworks—Generation of electricity—Classification of services for rates.
35.92.040	Authority to acquire and operate public markets and cold storage plants—"Public markets" defined.
35.92.060	Authority to acquire and operate transportation facilities.

**35.92.010 Authority to acquire and operate waterworks—Generation of electricity—Classification of services for rates.** A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain and operate waterworks, within or without its limits, for the purpose of furnishing the city and its inhabitants, and any other persons, with an ample supply of water for all purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution, and price thereof: PROVIDED, That the rates charged

must be uniform for the same class of customers or service. Such waterworks may include facilities for the generation of electricity as a byproduct and such electricity may be used by the city or town or sold to an entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply.

In classifying customers served or service furnished, the city or town governing body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the water furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful water use practices; capital contributions made to the system including, but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. No rate shall be charged that is less than the cost of the water and service to the class of customers served.

For such purposes any city or town may take, condemn and purchase, purchase, acquire, and retain water from any public or navigable lake or watercourse, surface or ground, and, by means of aqueducts or pipe lines, conduct it to the city or town; and it may erect and build dams or other works across or at the outlet of any lake or watercourse in this state for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams, or waterworks or other necessary structures in storing and retaining water, or for any of the purposes provided for by this chapter, the city or town may occupy and use the beds and shores up to the high water mark of any such watercourse or lake, and acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this chapter, or necessary for any of said purposes, and the city or town may acquire by purchase or condemnation and purchase any properties or privileges necessary to be had to protect its water supply from pollution. Should private property be necessary for any such purposes or for storing water above high water mark, the city or town may condemn and purchase, or purchase and acquire such private property. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a city or town that does not own or operate an electric utility system to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner. [1991 c 347 § 18. Prior: 1985 c 445 § 4; 1985 c 444 § 2; 1965 c 7 § 35.92.010; prior: 1959 c 90 § 6; 1957 c 209 § 2; prior: 1951 c 252 § 1; 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 §

1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.010.]

**Purposes**—1991 c 347: See note following RCW 90.42.005.

**Severability**—1991 c 347: See RCW 90.42.900.

**Intent**—1985 c 444: "For the purposes of this act, the legislature finds it is the policy of the state of Washington that:

(1) The quality of the natural environment shall be protected and, where possible, enhanced as follows: Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(2) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public." [1985 c 444 § 1.]

**Construction**—**Economic feasibility study**—1985 c 444: "(1) Nothing in this act exempts any city or town, water district, or sewer district from compliance with applicable state and federal statutes and regulations including but not limited to: State environmental policy act, chapter 43.21C RCW; national environmental policy act, 42 U.S.C. Sec. 4321 et seq.; federal power act, 16 U.S.C. Sec. 791 et seq.; public utility regulatory policies act, 15 U.S.C. Sec. 717f; Pacific northwest electric power planning and conservation act, 16 U.S.C. Sec. 839; energy financing voter approval act, chapter 80.52 RCW; water resources act, chapter 90.54 RCW; federal clean water act, 33 U.S.C. Sec. 1251 et seq.; the public water system coordination act, chapter 70.116 RCW; and the state clean water act, chapter 90.48 RCW.

(2) In addition, if the work proposed under this act involves a new water supply project combined with an electric generation facility with an installed capacity in excess of five megawatts which may produce electricity for sale in excess of present and future needs of the water system, then each of those with a greater than twenty-five percent ownership interest in the project shall jointly prepare an independent economic feasibility study evaluating the cost-effectiveness of the combined facility in the context of forecast regional water needs, alternate sources of water supply, and the potential impact of the combined facility on rates charged for water and electricity.

In addition to the economic feasibility study, the results of the environmental impact statement required by chapter 43.21C RCW and any review by the department of ecology made pursuant to chapter 90.54 RCW shall be made available to the public at least sixty days prior to any public vote on the new combined project.

(3) This act supplements the authority of cities and towns, water districts, and sewer districts and does not restrict or impose limits on any authority such municipal corporations may otherwise have under any laws of this state nor may the authority of such municipal corporations under other laws of this state be construed more narrowly on account of this act." [1985 c 444 § 7.]

**Severability**—1985 c 444: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 444 § 8.]

**Validating**—1917 c 12: "Whenever any city or town has heretofore issued or authorized to be issued by such vote of its electors as is required by law at any election duly and legally held to vote on such proposition, such utility bonds for the purpose of purchasing, paying for or acquiring any such utility as is described in this act, in every such case such utility bonds are hereby declared to be legal and valid, and such city or town is hereby authorized and empowered to proceed to issue and negotiate such bonds and to continue and conclude proceedings for the purchase or acquirement of such utility, and is hereby given full power to maintain and operate the same within all and every part of such contiguous territory whether incorporated or unincorporated." [1917 c 12 § 2.]

**Validating**—1909 c 150: "That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this

act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds, heretofore so authorized, may be hereafter issued or sold as if all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith." [1909 c 150 § 5.]

*Eminent domain by cities: Chapter 8.12 RCW.*

*Evaluation of application to appropriate water for electric generation facility: RCW 90.54.170.*

**35.92.040 Authority to acquire and operate public markets and cold storage plants**—"Public markets" defined. A city or town may also construct, acquire, and operate public markets and cold storage plants for the sale and preservation of butter, eggs, meats, fish, fruits, vegetables, and other perishable provisions. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing. [1990 c 189 § 4; 1965 c 7 § 35.92.040. Prior: 1957 c 288 § 5; 1957 c 209 § 5; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.040.]

**35.92.060 Authority to acquire and operate transportation facilities.** A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town, and a first class city may also construct, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways beyond

those corporate limits only within the boundaries of the county in which the city is located and of any adjoining county that has a population of at least forty thousand and fewer than one hundred twenty-five thousand and that is intersected by an interstate highway, for the transportation of freight and passengers above, upon, or underneath the ground. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business. [1991 c 124 § 1; 1990 c 43 § 49; 1985 c 445 § 10; 1981 c 25 § 2; 1965 c 7 § 35-.92.060. Prior: 1957 c 288 § 7; 1957 c 209 § 7; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.060.]

**Construction—Severability—Headings—1990 c 43:** See notes following RCW 47.76.100.

*Public transportation systems, financing, purchase of leased systems: Chapter 35.95 RCW.*

## Title 35A OPTIONAL MUNICIPAL CODE

### Chapters

- 35A.02** Procedure for incorporated municipality to become a noncharter code city—Selection of plan of government.
- 35A.06** Provisions applicable to adoption and abandonment of noncharter code city classification or plan of government.
- 35A.07** Procedure for city operating under charter to become a charter code city.
- 35A.08** Procedure for adoption of charter as charter code city.
- 35A.09** Amendment or revision of charters of charter code cities.
- 35A.10** Provisions applicable to adoption and abandonment of charter code city classification.
- 35A.14** Annexation by code cities.
- 35A.15** Disincorporation.
- 35A.21** Provisions affecting all code cities.
- 35A.29** Municipal elections in code cities.
- 35A.33** Budgets in code cities.
- 35A.34** Biennial budgets.
- 35A.40** Fiscal provisions applicable to code cities.
- 35A.41** Public employment.

- 35A.42** Public officers and agencies, meetings, duties and powers.
- 35A.63** Planning and zoning in code cities.
- 35A.82** Taxation—Excises.

*Local adopt-a-highway programs: RCW 47.40.105.*

### Chapter 35A.02 PROCEDURE FOR INCORPORATED MUNICIPALITY TO BECOME A NONCHARTER CODE CITY—SELECTION OF PLAN OF GOVERNMENT

#### Sections

- 35A.02.020 Petition method—Direct.
- 35A.02.060 Petition for election.

**35A.02.020 Petition method—Direct.** When a petition is filed, signed by registered voters of an incorporated city or town, in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the city or town of the classification of noncharter code city, either under its existing authorized plan of government or naming one of the plans of government authorized for noncharter code cities, the county auditor shall promptly proceed to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of such city or town shall, by resolution, declare that the inhabitants of the city or town have decided to adopt the classification of noncharter code city and to be governed under the provisions of this title. If a prayer for reorganization is included in the petition such resolution shall also declare that the inhabitants of the city or town have decided to reorganize under the plan of government specified in the petition. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city or town not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of, first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.025, as now or hereafter amended, as determined by RCW 35A.29.170, the legislative body at its next regular meeting shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of noncharter code city, and if the petition also sought governmental reorganization by adoption of one of the plans of government authorized for noncharter code cities involving a different general plan of government from that under which the city is operating, then the legislative body shall provide at that time for such reorganization by ordinance and for election of all new officers pursuant to RCW 35A.02.050, as now or hereafter amended. [1990 c 259 § 2; 1979 ex.s. c 18 § 3; 1967 ex.s. c 119 § 35A.02.020.]

**Severability**—1979 ex.s. c 18: See note following RCW 35A.01.070.

**35A.02.060 Petition for election.** When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of an incorporated city or town, signed by qualified electors of such municipality in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city or town of the classification of noncharter code city and the reorganization of the city or town under one of the plans of government authorized in this title, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon, the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days after certification of the sufficiency of the petition, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from such certification of sufficiency. Ballot titles for elections under this chapter shall be prepared by the city attorney as provided in RCW 35A.29.120. [1990 c 259 § 3; 1967 ex.s. c 119 § 35A.02.060.]

#### Chapter 35A.06

### PROVISIONS APPLICABLE TO ADOPTION AND ABANDONMENT OF NONCHARTER CODE CITY CLASSIFICATION OR PLAN OF GOVERNMENT

#### Sections

35A.06.040 Abandonment—Resolution or petition for election.

**35A.06.040 Abandonment—Resolution or petition for election.** Upon the passage of a resolution of the legislative body of a noncharter code city, or upon the filing of a sufficient petition with the county auditor signed by registered voters in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment by the city of the plan of government under which it is then operating and adoption of another plan, naming such plan, the sufficiency of the petition for abandonment shall be determined, an election ordered and conducted, and the results declared generally as provided in chapter 35A.02 RCW insofar as such provisions are applicable. If the resolution or petition proposes a plan of government other than those authorized in chapters 35A.12 RCW and 35A.13 RCW of this title, the resolution or petition shall specify the class under which such city will be classified upon adoption of such plan. [1990 c 259 § 4; 1967 ex.s. c 119 § 35A.06.040.]

#### Chapter 35A.07

### PROCEDURE FOR CITY OPERATING UNDER CHARTER TO BECOME A CHARTER CODE CITY

#### Sections

35A.07.020 Petition method—Direct.

35A.07.050 Petition for election.

**35A.07.020 Petition method—Direct.** When a petition is filed, signed by registered voters of a charter city in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the charter city of the classification of charter code city the legislative body of such city shall direct the county auditor to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of the charter city shall, by resolution, declare that the inhabitants of such city have decided to adopt the classification of charter code city and to be governed under this title. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the legislative body shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of charter code city. [1990 c 259 § 5; 1967 ex.s. c 119 § 35A.07.020.]

**35A.07.050 Petition for election.** When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a charter city, signed by registered voters of such city in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city of the classification of charter code city, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the filing of such petition. Ballot titles for such election shall be prepared by the city attorney as provided in RCW 35A.29.120. [1990 c 259 § 6; 1967 ex.s. c 119 § 35A.07.050.]

#### Chapter 35A.08

### PROCEDURE FOR ADOPTION OF CHARTER AS CHARTER CODE CITY

#### Sections

35A.08.040 Election on question—Election of freeholders.

**35A.08.040 Election on question—Election of freeholders.** The election on the question whether to adopt a charter and become a charter code city and the nomination and election of the members of the charter commission shall be conducted, and the result declared,

according to the laws regulating and controlling elections in the city. Candidates for election to the charter commission must be nominated by petition signed by ten registered voters of the city and residents therein for a period of at least two years preceding the election. A nominating petition shall be filed within the time allowed for filing declarations of candidacy and shall be verified by an affidavit of one or more of the signers to the effect that the affiant believes that the candidate and all of the signers are registered voters of the city and he signed the petition in good faith for the purpose of endorsing the person named therein for election to the charter commission. A written acceptance of the nomination by the nominee shall be affixed to the petition when filed with the county auditor. Nominating petitions need not be in the form prescribed in RCW 35A.01.040. Any nominee may withdraw his nomination by a written statement of withdrawal filed at any time not later than five days before the last day allowed for filing nominations. The positions on the charter commission shall be designated by consecutive numbers one through fifteen, and the positions so designated shall be considered as separate offices for all election purposes. A nomination shall be made for a specific numbered position. [1990 c 259 § 7; 1967 ex.s. c 119 § 35A.08.040.]

#### Chapter 35A.09

### AMENDMENT OR REVISION OF CHARTERS OF CHARTER CODE CITIES

#### Sections

- 35A.09.020 Petition for submission of charter amendment.  
35A.09.040 Submission of new or revised charter—Election.

**35A.09.020 Petition for submission of charter amendment.** Upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city, in number equal to at least ten percent of the votes cast at the last general municipal election, seeking the adoption of a specified charter amendment set forth in the petition, providing for any matter within the realm of local affairs, or municipal business, or structure of municipal government, offices, and departments, said amendment shall be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election to be held for that purpose not less than ninety days, nor more than one hundred and eighty days after the filing of the certificate of sufficiency of the petition. The proposed charter amendment shall be published as provided in RCW 35A.09.050. Upon approval by a majority of the registered voters voting thereon, such amendment shall become a part of the charter organic law governing such charter code city. [1990 c 259 § 8; 1967 ex.s. c 119 § 35A.09.020.]

**35A.09.040 Submission of new or revised charter—Election.** Within ten days after the results of the

election authorized by RCW 35A.09.030 have been determined, if a majority of the votes cast favor the proposition, the members of the charter commission elected thereat shall convene and prepare a new or revised charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one hundred and eighty days thereafter file it with the county auditor. The charter commission shall be organized, vacancies filled, alternative plans of government considered, and a public hearing held all in the manner provided in sections of chapter 35A.08 RCW relating to charter commissions, and the commission members shall be reimbursed for their expenses and may obtain technical and clerical assistance in the manner provided in chapter 35A.08 RCW. Upon the filing of the proposed new, altered, changed, or revised charter with the county auditor, it shall be submitted to the registered voters of the charter code city at an election conducted as provided in RCW 35A.09.060. [1990 c 259 § 9; 1967 ex.s. c 119 § 35A.09.040.]

#### Chapter 35A.10

### PROVISIONS APPLICABLE TO ADOPTION AND ABANDONMENT OF CHARTER CODE CITY CLASSIFICATION

#### Sections

- 35A.10.030 Resolution or petition for change of classification—Election.

**35A.10.030 Resolution or petition for change of classification—Election.** Upon the passage of a resolution of the legislative body of a charter code city, or upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment of the classification of charter code city and that the city be governed under its charter and the general law relating to cities of the classification named in the petition or resolution, the legislative body thereof shall cause the propositions to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. Notice of election shall be given, the election conducted, and results declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of the votes cast upon such proposition are in favor of abandonment of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such charter city shall be classified as a city of the class selected and shall be governed by the laws relating thereto. [1990 c 259 § 10; 1967 ex.s. c 119 § 35A.10.030.]

## Chapter 35A.14

## ANNEXATION BY CODE CITIES

## Sections

35A.14.005 Annexations beyond urban growth areas prohibited.

**35A.14.005 Annexations beyond urban growth areas prohibited.** No code city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area. [1990 1st ex.s. c 17 § 31.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

## Chapter 35A.15

## DISINCORPORATION

## Sections

35A.15.010 Authority for disincorporation—Petition—Resolution.

**35A.15.010 Authority for disincorporation—Petition—Resolution.** Any noncharter code city may be disincorporated. Proceedings may be initiated by the filing with the county auditor of a petition for disincorporation signed by a majority of the registered voters resident in such city, or the legislative body of the city may provide by resolution for an election on the proposition of disincorporation. [1990 c 259 § 11; 1967 ex.s. c 119 § 35A.15.010.]

## Chapter 35A.21

## PROVISIONS AFFECTING ALL CODE CITIES

## Sections

35A.21.153 Solid waste collection curbside recycling—Reduced rate.

**35A.21.153 Solid waste collection curbside recycling—Reduced rate.** (1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090, may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection. [1991 c 319 § 405.]

**Severability—Part headings not law—1991 c 319:** See RCW 70.95F.900 and 70.95F.901.

## Chapter 35A.29

## MUNICIPAL ELECTIONS IN CODE CITIES

## Sections

35A.29.105 Numbering of council positions. (Effective July 1, 1992.)

35A.29.110 Declaration of candidacy—Time for filing—Withdrawal—Nominating petitions. (Effective July 1, 1992.)

**35A.29.105 Numbering of council positions. (Effective July 1, 1992.)** Positions to be filled on the council of code cities operating under the mayor-council or council-manager plan of government shall be numbered consecutively and treated as separate offices for all election purposes as provided in RCW 29.15.130. [1990 c 59 § 106; 1967 ex.s. c 119 § 35A.29.105.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**35A.29.110 Declaration of candidacy—Time for filing—Withdrawal—Nominating petitions. (Effective July 1, 1992.)** A candidate for office in a code city shall file a declaration of candidacy substantially in the form provided under RCW 29.15.010 insofar as such form is applicable to nonpartisan offices. Declarations of candidacy for offices of code cities to be voted upon at any municipal general election shall be filed with the county auditor not earlier than the fourth Monday of July nor later than the next succeeding Friday in the year such general election is to be held. However, if the first election of all officers upon reorganization as a noncharter code city under a plan of government newly adopted in the manner provided in RCW 35A.02.020, 35A.02.030, 35A.02.080, or 35A.06.030 is an election as provided in RCW 35A.02.050, such declarations of candidacy shall be filed with the county auditor not more than fifty nor less than forty-six days prior to the primary election provided for in RCW 35A.02.050. Any candidate may withdraw his declaration at any time before the Friday following the last day allowed for filing declarations of candidacy. Nominating petitions for charter commissioners and for any other office for which nominating petitions may be required shall be filed with the county auditor not more than sixty nor less than forty-six days prior to the date of the election, and may be withdrawn at any time, but not later than five days after the last day allowed for filing such petitions. [1990 c 59 § 107; 1986 c 167 § 21; 1979 ex.s. c 18 § 30; 1970 ex.s. c 52 § 4; 1967 ex.s. c 119 § 35A.29.110.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Severability—1986 c 167:** See note following RCW 29.01.055.

**Severability—1979 ex.s. c 18:** See note following RCW 35A.01.070.

### Chapter 35A.33 BUDGETS IN CODE CITIES

## Sections

35A.33.122 Administration, oversight, or supervision of utility—  
Reimbursement from utility budget authorized.

**35A.33.122 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized.** Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services. [1991 c 152 § 3.]

### Chapter 35A.34 BIENNIAL BUDGETS

## Sections

35A.34.205 Administration, oversight, or supervision of utility—  
Reimbursement from utility budget authorized.

**35A.34.205 Administration, oversight, or supervision of utility—Reimbursement from utility budget authorized.** Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services. [1991 c 152 § 4.]

### Chapter 35A.40 FISCAL PROVISIONS APPLICABLE TO CODE CITIES

## Sections

35A.40.110 Employee checks, drafts, warrants—City may cash.

**35A.40.110 Employee checks, drafts, warrants—City may cash.** Any code city is hereby authorized, at its option and after the adoption of the appropriate ordinance, to accept in exchange for cash a payroll check, draft, or warrant; expense check, draft, or warrant; or personal check from a city employee in accordance with the following conditions:

(1) The check, warrant, or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(2) The person presenting the check, draft, or warrant to the city must produce identification as outlined by the city in the authorizing ordinance;

(3) The payroll check, draft, or warrant or expense check, draft, or warrant must have been issued by the city; and

(4) Personal checks cashed pursuant to this authorization cannot exceed two hundred dollars.

In the event that any personal check cashed for a city employee by the city under this section is dishonored by the drawee financial institution when presented for payment, the city is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next payroll check, draft, or warrant the full amount of the dishonored check. [1991 c 185 § 2.]

### Chapter 35A.41 PUBLIC EMPLOYMENT

## Sections

35A.41.020 Public employment and civil service. (Effective January 1, 1992.)

**35A.41.020 Public employment and civil service. (Effective January 1, 1992.)** Except as otherwise provided in this title, the general provisions relating to public employment, including hospitalization and medical aid as provided in chapter 41.04 RCW, and the application of federal social security for public employees, the acceptance of old age and survivors insurance as provided in chapters 41.47 and 41.48 RCW, military leave as provided in RCW 38.40.060, self-insurance as provided in chapter 48.62 RCW, the application of industrial insurance as provided in Title 51 RCW, and chapter 43.101 RCW relating to training of law enforcement officers, shall apply to code cities. Any code city may retain any civil service system theretofore in effect in such city and may adopt any system of civil service which would be available to any class of city under general law. [1991 1st sp.s. c 30 § 20; 1983 c 3 § 66; 1967 ex.s. c 119 § 35A.41.020.]

**Effective date, implementation, application—Severability—1991 1st sp.s. c 30:** See RCW 48.62.900 and 48.62.901.  
*Political activities of public employees: RCW 41.06.250.*

### Chapter 35A.42 PUBLIC OFFICERS AND AGENCIES, MEETINGS, DUTIES AND POWERS

## Sections

35A.42.040 City clerks and controllers. (Effective July 1, 1992.)

**35A.42.040 City clerks and controllers. (Effective July 1, 1992.)** In addition to any specific enumeration of duties of city clerks in a code city's charter or ordinances, and without limiting the generality of RCW 35A.21.030 of this title, the clerks of all code cities shall perform the following duties in the manner prescribed, to wit: (1) Certification of city streets as part of the highway system in accordance with the provisions of RCW 47.24.010; (2) perform the functions of a member of a firemen's pension board as provided by RCW 41.16.020; (3) keep a record of ordinances of the city and provide copies thereof as authorized by RCW 5.44.080; (4) serve as applicable the trustees of any police relief and pension board as authorized by RCW 41.20.010;

and (5) serve as secretary-treasurer of volunteer fire fighters' relief and pension boards as provided in RCW 41.24.060. [1991 c 81 § 39; 1967 ex.s. c 119 § 35A.42.040.]

Effective date—1991 c 81: See note following RCW 29.85.010.

**Chapter 35A.63**

**PLANNING AND ZONING IN CODE CITIES**

Sections

35A.63.105 Development regulations—Consistency with comprehensive plan.

**35A.63.105 Development regulations—Consistency with comprehensive plan.** Beginning July 1, 1992, the development regulations of each code city that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030. [1990 1st ex.s. c 17 § 23.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

**Chapter 35A.82**

**TAXATION—EXCISES**

Sections

35A.82.025 Authority to regulate massage practitioners—Limitations.

**35A.82.025 Authority to regulate massage practitioners—Limitations.** (1) A state licensed massage practitioner seeking a city license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city.

(3) A state licensed massage practitioner is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists. [1991 c 182 § 2.]

Reviser's note: 1991 c 182 directed that this section be added to chapter 35A.11 RCW. This section has been codified as a part of chapter 35A.82 RCW, which relates more directly to code city licensing authority.

**Title 36  
COUNTIES**

**Chapters**

- 36.01** General provisions.
- 36.13** Classification of counties.

- 36.16** County officers—General.
- 36.17** Salaries of county officers.
- 36.18** Fees of county officers.
- 36.21** County assessor.
- 36.22** County auditor.
- 36.23** County clerk.
- 36.24** County coroner.
- 36.27** Prosecuting attorney.
- 36.28A** Association of sheriffs and police chiefs.
- 36.29** County treasurer.
- 36.32** County commissioners.
- 36.33** County funds.
- 36.34** County property.
- 36.36** Aquifer protection areas.
- 36.47** Coordination of administrative programs.
- 36.48** Depositories.
- 36.56** Metropolitan municipal corporation functions, etc.—Assumption by counties.
- 36.57A** Public transportation benefit areas.
- 36.58** Solid waste disposal.
- 36.62** Hospitals.
- 36.64** Joint governmental activities.
- 36.69** Recreation districts act.
- 36.70** Planning enabling act.
- 36.70A** Growth management—Planning by selected counties and cities.
- 36.77** Roads and bridges—Construction.
- 36.78** Roads and bridges—County road administration board.
- 36.79** Roads and bridges—Rural arterial program.
- 36.80** Roads and bridges—Engineer.
- 36.81** Roads and bridges—Establishment.
- 36.82** Roads and bridges—Funds—Budget.
- 36.87** Roads and bridges—Vacation.
- 36.88** County road improvement districts.
- 36.89** Highways—Open spaces—Parks—Recreation, community, health and safety facilities—Storm water control.
- 36.93** Local governmental organization—Boundaries—Review boards.
- 36.94** Sewerage, water and drainage systems.
- 36.95** Television reception improvement districts.
- 36.96** Dissolution of inactive special purpose districts.
- 36.105** Community councils for unincorporated areas of island counties.

**Chapter 36.01**

**GENERAL PROVISIONS**

Sections

36.01.130 Controls on rent for residential structures—Prohibited—Exceptions.

**36.01.130 Controls on rent for residential structures—Prohibited—Exceptions.** The imposition of controls on rent is of state-wide significance and is preempted by the state. No county may enact, maintain or enforce ordinances or other provisions which regulate the amount of rent to be charged for single family or multiple unit residential rental structures or sites other than

properties in public ownership, under public management, or properties providing low-income rental housing under joint public-private agreements for the financing or provision of such low-income rental housing. This section shall not be construed as prohibiting any county from entering into agreements with private persons which regulate or control the amount of rent to be charged for rental properties. [1991 c 363 § 43; 1981 c 75 § 2.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Applicability to floating home moorage sites—Severability—1981 c 75:** See notes following RCW 35.21.830.

### Chapter 36.13

#### CLASSIFICATION OF COUNTIES

##### Sections

36.13.010	Repealed.
36.13.020	County census authorized.
36.13.075	Repealed.
36.13.080	Repealed.
36.13.090	Repealed.
36.13.100	Determination of population.

**36.13.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.13.020 County census authorized.** The legislative authority of any county may order a county census to be taken of all the inhabitants of the county. The expense of such census enumeration shall be paid from the county current expense fund. [1991 c 363 § 44; 1977 ex.s. c 110 § 6; 1963 c 4 § 36.13.020. Prior: (i) 1923 c 177 § 1; RRS § 4200-6. (ii) 1923 c 177 § 5; RRS § 4200-10.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.13.075 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.13.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.13.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.13.100 Determination of population.** Whenever any provision of law refers to the population of a county for purposes of distributing funds or for any other purpose, the population of the respective counties shall be determined by the most recent census, population estimate by the office of financial management, or special county census as certified by the office of financial management. [1991 c 363 § 45; 1963 c 4 § 36.13.100. Prior: 1949 c 92 § 1; Rem. Supp. 1949 § 4200-6a.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Population determinations, office of financial management: Chapter 43.62 RCW.**

### Chapter 36.16

#### COUNTY OFFICERS—GENERAL

##### Sections

36.16.030	Elective county officers enumerated. (Effective until July 1, 1993.)
36.16.030	Elective county officers enumerated. (Effective July 1, 1993.)
36.16.032	Offices of auditor and clerk may be combined in counties with populations of less than five thousand— Salary.
36.16.050	Official bonds.
36.16.140	Public auction sales, where held.

**36.16.030 Elective county officers enumerated. (Effective until July 1, 1993.)** Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW 29.04.170. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558. [1991 c 363 § 46; 1990 c 252 § 8; 1963 c 4 § 36.16.030. Prior: 1955 c 157 § 5; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1-3; 1863 p 549 §§ 1-3; 1854 p 424 §§ 1-3; RRS § 4083. (ii) Code 1881 § 2738; 1863 p 552 § 1; 1854 p 426 § 1; RRS § 4106. (iii) 1891 c 5 § 1; RRS § 4127. (iv) 1890 p 478 § 1; 1886 p 164 § 1; 1883 p 39 § 1; Code 1881 § 2752; 1869 p 402 § 1; 1854 p 428 § 1; RRS § 4140. (v) 1943 c 139 § 1; Code 1881 § 2766; 1863 p 557 § 1; 1854 p 434 § 1; Rem. Supp. 1949 § 4155. (vi) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (vii) 1933 c 136

§ 2; 1925 ex.s. c 148 § 2; RRS § 4200-2a. (viii) 1937 c 197 § 1; 1933 c 136 § 3; 1925 ex.s. c 148 § 3; RRS § 4200-3a. (ix) 1937 c 197 § 2; 1933 c 136 § 4; 1925 ex.s. c 148 § 4; RRS § 4200-4a. (x) 1927 c 37 § 1; 1890 p 304 § 2; RRS § 4205-1.]

**Reviser's note:** (1) This section was amended by 1991 c 363 § 46 and by 1990 c 252 § 8. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) The delayed effective date for 1990 c 252 was repealed by 1991 c 344 § 1.

**Expiration dates—1991 c 363 §§ 46, 130:** "(1) Section 130 of this act shall expire July 1, 1992.

(2) Section 46 of this act shall expire July 1, 1993." [1991 c 363 § 166.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.16.030 Elective county officers enumerated. (Effective July 1, 1993.)** Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW 29.04.170. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558. [1991 c 363 §§ 46, 47; 1990 c 252 § 8; 1963 c 4 § 36.16.030. Prior: 1955 c 157 § 5; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1-3; 1863 p 549 §§ 1-3; 1854 p 424 §§ 1-3; RRS § 4083. (ii) Code 1881 § 2738; 1863 p 552 § 1; 1854 p 426 § 1; RRS § 4106. (iii) 1891 c 5 § 1; RRS § 4127. (iv) 1890 p 478 § 1; 1886 p 164 § 1; 1883 p 39 § 1; Code 1881 § 2752; 1869 p 402 § 1; 1854 p 428 § 1; RRS § 4140. (v) 1943 c 139 § 1; Code 1881 § 2766; 1863 p 557 § 1; 1854 p 434 § 1; Rem. Supp. 1949 § 4155. (vi) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (vii) 1933 c 136 § 2; 1925 ex.s. c 148 § 2; RRS § 4200-2a. (viii) 1937 c 197 § 1; 1933 c 136 § 3; 1925 ex.s. c 148 § 3; RRS § 4200-3a. (ix) 1937 c 197

§ 2; 1933 c 136 § 4; 1925 ex.s. c 148 § 4; RRS § 4200-4a. (x) 1927 c 37 § 1; 1890 p 304 § 2; RRS § 4205-1.]

**Effective dates—1991 c 363 §§ 28, 29, 33, 47, 131:** See note following RCW 28A.315.670.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.16.032 Offices of auditor and clerk may be combined in counties with populations of less than five thousand—Salary.** The office of county auditor may be combined with the office of county clerk in each county with a population of less than five thousand by unanimous resolution of the county legislative authority passed thirty days or more prior to the first day of filing for the primary election for county offices. The salary of such office of county clerk combined with the office of county auditor, and the salary of the office of county auditor that is not combined with the office of county clerk, shall be not less than ten thousand three hundred dollars. The county legislative authority of such county is authorized to increase or decrease the salary of such office: **PROVIDED,** That the legislative authority of the county shall not reduce the salary of any official below the amount which such official was receiving on January 1, 1973. [1991 c 363 § 48; 1973 1st ex.s. c 88 § 1; 1972 ex.s. c 97 § 1; 1967 ex.s. c 77 § 1; 1963 c 164 § 2; 1963 c 4 § 36.16.032. Prior: 1957 c 219 § 4.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.16.050 Official bonds.** Every county official before he or she enters upon the duties of his or her office shall furnish a bond conditioned that he or she will faithfully perform the duties of his or her office and account for and pay over all money which may come into his or her hands by virtue of his or her office, and that he or she, or his or her executors or administrators, will deliver to his or her successor safe and undefaced all books, records, papers, seals, equipment, and furniture belonging to his or her office. Bonds of elective county officers shall be as follows:

(1) Assessor: Amount to be fixed and sureties to be approved by proper county legislative authority;

(2) Auditor: Amount to be fixed at not less than ten thousand dollars and sureties to be approved by the proper county legislative authority;

(3) Clerk: Amount to be fixed in a penal sum not less than double the amount of money liable to come into his or her hands and sureties to be approved by the judge or a majority of the judges presiding over the court of which he or she is clerk: **PROVIDED,** That the maximum bond fixed for the clerk shall not exceed in amount that required for the treasurer in a county of that class;

(4) Coroner: Amount to be fixed at not less than five thousand dollars with sureties to be approved by the proper county legislative authority;

(5) Members of the proper county legislative authority: Sureties to be approved by the county clerk and the amounts to be:

(a) In each county with a population of one hundred twenty-five thousand or more, twenty-five thousand dollars;

(b) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand, twenty-two thousand five hundred dollars;

(c) In each county with a population of from forty [thousand] to less than seventy thousand, twenty thousand dollars;

(d) In each county with a population of from eighteen thousand to less than forty thousand, fifteen thousand dollars;

(e) In each county with a population of from twelve thousand to less than eighteen thousand, ten thousand dollars;

(f) In each county with a population of from eight thousand to less than twelve thousand, seven thousand five hundred dollars;

(g) In all other counties, five thousand dollars;

(6) Prosecuting attorney: In the amount of five thousand dollars with sureties to be approved by the proper county legislative authority;

(7) Sheriff: Amount to be fixed and bond approved by the proper county legislative authority at not less than five thousand nor more than fifty thousand dollars; surety to be a surety company authorized to do business in this state;

(8) Treasurer: Sureties to be approved by the proper county legislative authority and the amounts to be fixed by the proper county legislative authority at double the amount liable to come into the treasurer's hands during his or her term, the maximum amount of the bond, however, not to exceed:

(a) In each county with a population of two hundred ten thousand or more, two hundred fifty thousand dollars;

(b) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand, two hundred thousand dollars;

(c) In each county with a population of from eighteen thousand to less than one hundred twenty-five thousand, one hundred fifty thousand dollars;

(d) In all other counties, one hundred thousand dollars.

The treasurer's bond shall be conditioned that all moneys received by him or her for the use of the county shall be paid as the proper county legislative authority shall from time to time direct, except where special provision is made by law for the payment of such moneys, by order of any court, or otherwise, and for the faithful discharge of his or her duties.

Bonds for other than elective officials, if deemed necessary by the proper county legislative authority, shall be in such amount and form as such legislative authority shall determine.

In the approval of official bonds, the chair may act for the county legislative authority if it is not in session. [1991 c 363 § 49; 1971 c 71 § 1; 1969 ex.s. c 176 § 91; 1963 c 4 § 36.16.050. Prior: 1955 c 157 § 7; prior: (i) 1895 c 53 § 1; RRS § 70. (ii) 1895 c 53 § 2, part; RRS § 71, part. (iii) 1921 c 132 § 1, part; 1893 c 75 § 7, part;

RRS § 4046, part. (iv) Code 1881 § 2708, part; 1869 p 310 § 4, part; 1863 p 549 § 4, part; 1854 p 424 § 4, part; RRS § 4084, part. (v) 1943 c 249 § 1, part; Code 1881 § 2739, part; 1863 p 553 § 2, part; 1854 p 426 § 2, part; Rem. Supp. 1943 § 4107, part. (vi) 1886 p 61 § 4, part; 1883 p 73 § 9, part; Code 1881 § 2163, part; 1877 p 246 § 5, part; 1863 p 408 § 3, part; 1860 p 334 § 3, part; 1858 p 12 § 3, part; 1854 p 417 § 3, part; RRS 4129, part. (vii) 1897 c 71 § 44, part; 1893 p 124 § 46, part; Code 1881 § 2753, part; 1854 p 428 § 2, part; RRS § 4141, part. (viii) 1943 c 139 § 1, part; Code 1881 § 2766, part; 1863 p 557 § 1, part; 1854 p 434 § 1, part; Rem. Supp. 1943 § 4155, part. (ix) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (x) 1909 c 97 p 280 § 1, part; 1903 c 104 § 13, part; 1899 c 142 § 5, part; 1897 c 118 § 30, part; 1890 p 355 § 10, part; Code 1881 § 3170, part; RRS § 4767, part. (xi) 1890 p 35 § 5, part; RRS § 9934, part. (xii) 1925 ex.s. c 130 § 55, part; 1891 c 140 § 46, part; 1890 p 548 § 50, part; RRS § 11138, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

*Auditor as registrar of titles, bond for:* RCW 65.12.055.

*Examiner of titles, bond:* RCW 65.12.090.

*Public officers, official bonds*

*Code of 1881, county application:* RCW 42.08.010 through 42.08.050.

*1890 act, county application:* RCW 42.08.060 through 42.08.170.

**36.16.140 Public auction sales, where held.** Public auction sales of property conducted by or for the county shall be held at such places as the county legislative authority may direct. [1991 c 363 § 50; 1991 c 245 § 3; 1965 ex.s. c 23 § 6.]

**Reviser's note:** This section was amended by 1991 c 245 § 3 and by 1991 c 363 § 50, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

*Building permit—County must require payroll estimate under industrial insurance act:* RCW 51.12.070.

*Public lands—Place of sale—Hours:* RCW 79.01.196.

*Sales of county property, where held:* RCW 36.34.080.

*Tax sales, where held:* RCW 84.64.080, 84.64.270.

## Chapter 36.17

### SALARIES OF COUNTY OFFICERS

#### Sections

36.17.010	Salary full compensation.
36.17.020	Schedule of salaries.
36.17.040	Payment of salaries of officers and employees.

**36.17.010 Salary full compensation.** The county officers of the counties of this state shall receive a salary for the services required of them by law, or by virtue of their office, which salary shall be full compensation for all services of every kind and description rendered by them. [1991 c 363 § 51; 1963 c 4 § 36.17.010. Prior: 1890 p 312 § 32; RRS § 4210.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.17.020 Schedule of salaries.** The county legislative authority of each county is authorized to establish the salaries of the elected officials of the county. One-half of the salary of each prosecuting attorney shall be paid by the state. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; assessor, nineteen thousand dollars; and prosecuting attorney, thirty thousand three hundred dollars;

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of the county legislative authority, nineteen thousand five hundred dollars; and coroner, sixteen thousand five hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, eight thousand eight hundred dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, five thousand five hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, four thousand dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred

dollars; assessor, twelve thousand one hundred dollars; prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars; and members of the county legislative authority, eleven thousand dollars;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, thirteen thousand two hundred dollars; and members of the county legislative authority, nine thousand four hundred dollars;

(8) In each county with a population of from eight thousand to less than twelve thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, seven thousand dollars;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars. [1991 c 363 § 52; 1973 1st ex.s. c 88 § 2; 1971 ex.s. c 237 § 1; 1969 ex.s. c 226 § 1; 1967 ex.s. c 77 § 2; 1967 c 218 § 3; 1963 c 164 § 1; 1963 c 4 § 36.17.020. Prior: 1957 c 219 § 3; prior: (i) 1953 c 264 § 1; 1949 c 200 § 1, part; 1945 c 87 § 1, part; 1937 c 197 § 3, part; 1933 c 136 § 6, part; 1925 ex.s. c 148 § 6, part; 1919 c 168 § 2, part; Rem. Supp. 1949 § 4200-5a, part. (ii) 1921 c 184 § 2; RRS § 4203.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1971 ex.s. c 237:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 237 § 4.]

**Effective date—1971 ex.s. c 237:** "This act shall take effect on January 1, 1972." [1971 ex.s. c 237 § 5.]

The above two annotations apply to 1971 ex.s. c 237. For codification of that act, see Codification Tables, Volume 0.

*Counties with populations of less than five thousand, combined office of auditor and clerk, salary: RCW 36.16.032.*

**36.17.040 Payment of salaries of officers and employees.** The salaries of county officers and employees of counties other than counties with a population of less than five thousand may be paid twice monthly out of the county treasury, and the county auditor, for services rendered from the first to the fifteenth day, inclusive, may, not later than the last day of the month, draw a warrant upon the county treasurer in favor of each of such officers and employees for the amount of salary due him or her, and such auditor, for services rendered from the sixteenth to the last day, inclusive, may similarly draw a warrant, not later than the fifteenth day of the following month, and the county legislative authority, with the concurrence of the county auditor, may enter an order on the record journal empowering him or her so to do: **PROVIDED**, That if the county legislative authority does not adopt the semimonthly pay plan, it, by resolution, shall designate the first pay period as a draw day. Not more than forty percent of said earned monthly salary of each such county officer or employee shall be paid to him or her on the draw day and the payroll deductions of such officer or employee shall not be deducted from the salary to be paid on the draw day. If officers and employees are paid once a month, the draw day shall not be later than the last day of each month. The balance of the earned monthly salary of each such officer or employee shall be paid not later than the fifteenth day of the following month.

In counties with a population of less than five thousand salaries shall be paid monthly unless the county legislative authority by resolution adopts the foregoing draw day procedure. [1991 c 363 § 53; 1988 c 281 § 9; 1963 c 4 § 36.17.040. Prior: 1959 c 300 § 1; 1953 c 37 § 1; 1890 p 314 § 37; RRS § 4220.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1988 c 281:** See RCW 39.59.900.

## Chapter 36.18

### FEES OF COUNTY OFFICERS

#### Sections

36.18.005	Definitions.
36.18.010	Auditor's fees.

**36.18.005 Definitions.** The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Recording officer" means the county auditor, or in charter counties the county official charged with the responsibility for recording instruments in the county records.

(2) "File," "filed," or "filing" means the act of delivering an instrument to the auditor or recording officer for recording into the official public records.

(3) "Record," "recorded," or "recording" means the process, such as electronic, mechanical, optical, magnetic, or microfilm storage used by the auditor or recording officer after filing to incorporate the instrument into the public records. [1991 c 26 § 1.]

**36.18.010 Auditor's fees.** County auditors or recording officers shall collect the following fees for their official services:

For recording instruments, for the first page, legal size (eight and one-half by fourteen inches or less), five dollars; for each additional legal size page, one dollar; the fee for recording multiple transactions contained in one instrument will be calculated individually for each transaction requiring separate indexing as required under RCW 65.04.050;

For preparing and certifying copies, for the first legal size page, three dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund, which five-dollar fee shall expire June 30, 1995, plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: **PROVIDED**, That there shall be a minimum fee of twenty-five dollars per plat;

For recording of miscellaneous records, not listed above, for first legal size page, five dollars; for each additional legal size page, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170. [1991 c 26 § 2. Prior: 1989 c 304 § 1; 1989 c 204 § 6; 1987 c 230 § 1; 1985 c 44 § 2; 1984 c 261 § 4; 1982 1st ex.s. c 15 § 7; 1982 c 4 § 12; 1977 ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010; prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

**Findings—1989 c 204:** See note following RCW 36.22.160.

**Effective date—1987 c 230:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 230 § 4.]

**Severability—1984 c 261:** See note following RCW 43.121.020.

**Severability—1982 c 4:** See RCW 43.121.910.

**Effective date—1967 c 26:** See note following RCW 43.70.150.

*Family court funding, marriage license fee increase authorized: RCW 26.12.220.*

**Chapter 36.21**  
**COUNTY ASSESSOR**

## Sections

- 36.21.015 Qualifications for persons assessing real property—  
Examination—Examination waiver—Continuing  
education requirement. (Effective July 1, 1992.)
- 36.21.100 Annual report to department of revenue on property tax  
levies and related matters.

**36.21.015 Qualifications for persons assessing real property—Examination—Examination waiver—Continuing education requirement. (Effective July 1, 1992.)** (1) Any person having the responsibility of valuing real property for purposes of taxation including persons acting as assistants or deputies to a county assessor under RCW 36.21.011 shall have first:

(a) Had at least one year of experience in transactions involving real property, in appraisal of real property, or in assessment of real property, or at least one year of experience in a combination of the three;

(b) Become knowledgeable in repair and remodeling of buildings and improvement of land, and in the significance of locality and area to the value of real property;

(c) Become knowledgeable in the standards for appraising property set forth by the department of revenue; and

(d) Met other minimum requirements specified by department of revenue rule.

(2) The department of revenue shall prepare and administer an examination on subjects related to the valuation of real property. No person shall assess real property for purposes of taxation without having passed said examination or having received an examination waiver from the department of revenue upon showing education or experience determined by the department to be equivalent to passing the examination. A person passing said examination or receiving an examination waiver shall be accredited accordingly by the department of revenue.

(3) The department of revenue may by rule establish continuing education requirements for persons assessing real property for purposes of taxation. The department shall provide accreditation of completion of requirements imposed under this section. No person shall assess real property for purposes of taxation without complying with requirements imposed under this subsection.

(4) To the extent practical, the department of revenue shall coordinate accreditation requirements under this section with the requirements for certified real estate appraisers under chapter 18.140 RCW.

(5) The examination requirements of subsection (2) of this section shall not apply to any person who shall have either:

(a) Been certified as a real property appraiser by the department of personnel prior to July 1, 1992; or

(b) Attended and satisfactorily completed the assessor's school operated jointly by the department of revenue and the Washington state assessors association prior to August 9, 1971. [1991 c 218 § 3; 1977 c 75 § 30; 1971 ex.s. c 288 § 17; 1971 ex.s. c 27 § 1.]

**Effective date—1991 c 218:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately, except section 3 of this act, which shall take effect July 1, 1992." [1991 c 218 § 5.]

**Savings—Severability—1971 ex.s. c 288:** See notes following RCW 84.40.030.

**36.21.100 Annual report to department of revenue on property tax levies and related matters.** Every county assessor shall report to the department of revenue on the property tax levies and related matters within the county annually at a date and in a form prescribed by the department of revenue. The report shall include, but need not be limited to, the results of sales-assessment ratio studies performed by the assessor. The ratio studies shall be based on use classes of real property and shall be performed under a plan approved by the department of revenue. [1991 c 218 § 4; 1987 c 138 § 8.]

**Effective date—1991 c 218:** See note following RCW 36.21.015.

**Chapter 36.22**  
**COUNTY AUDITOR**

## Sections

- 36.22.180 Repealed.

**36.22.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Chapter 36.23**  
**COUNTY CLERK**

## Sections

- 36.23.090 Search for birth parents—County clerk's duty.

**36.23.090 Search for birth parents—County clerk's duty.** The county clerk shall provide the name and telephone number of at least one resource to assist adopted persons who are searching for birth parents, or birth parents who are searching for children they have relinquished, if these resources have contacted the clerk's office and requested that their name be made available to persons making inquiry. [1990 c 146 § 10.]

**Chapter 36.24**  
**COUNTY CORONER**

## Sections

- 36.24.175 Coroner not to be owner or employee of funeral home or mortuary—Counties with populations of forty thousand or more.

**36.24.175 Coroner not to be owner or employee of funeral home or mortuary—Counties with populations of forty thousand or more.** In each county with a population of forty thousand or more, no person shall be qualified for the office of county coroner as provided for in RCW 36.16.030 who is an owner or employee of any

funeral home or mortuary. [1991 c 363 § 54; 1969 ex.s. c 259 § 3.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.27 PROSECUTING ATTORNEY

#### Sections

36.27.060 Private practice prohibited in certain counties—Deputy prosecutors.

**36.27.060 Private practice prohibited in certain counties—Deputy prosecutors.** (1) The prosecuting attorney, and deputy prosecuting attorneys, of each county with a population of eighteen thousand or more shall serve full time and except as otherwise provided for in this section shall not engage in the private practice of law.

(2) Deputy prosecuting attorneys in a county with a population of from eighteen thousand to less than one hundred twenty-five thousand may serve part time and engage in the private practice of law if the county legislative authority so provides.

(3) Except as provided in subsection (4) of this section, nothing in this section prohibits a prosecuting attorney or deputy prosecuting attorney in any county from:

(a) Performing legal services for himself or herself or his or her immediate family; or

(b) Performing legal services of a charitable nature.

(4) The legal services identified in subsection (3) of this section may not be performed if they would interfere with the duties of a prosecuting attorney, or deputy prosecuting attorney and no services that are performed shall be deemed within the scope of employment of a prosecutor or deputy prosecutor. [1991 c 363 § 55; 1989 c 39 § 1; 1973 1st ex.s. c 86 § 1; 1971 ex.s. c 237 § 2; 1969 ex.s. c 226 § 2; 1963 c 4 § 36.27.060. Prior: 1941 c 46 § 2; Rem. Supp. 1941 § 4139-1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Effective date—1973 1st ex.s. c 86:** "This 1973 amendatory act shall take effect on the second Monday in the month of January, 1975." [1973 1st ex.s. c 86 § 2.]

**Severability—Effective date—1971 ex.s. c 237:** See notes following RCW 36.17.020.

### Chapter 36.28A ASSOCIATION OF SHERIFFS AND POLICE CHIEFS

#### Sections

36.28A.020 Local law and justice plan assistance.

**36.28A.020 Local law and justice plan assistance.** The Washington association of sheriffs and police chiefs may, upon request of a county's legislative authority, assist the county in developing and implementing its local law and justice plan. In doing so, the association shall

consult with the office of financial management and the department of corrections. [1991 c 363 § 56.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.29 COUNTY TREASURER

#### Sections

36.29.010 General duties.  
36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee.  
36.29.030 Repealed.  
36.29.060 Warrant calls.  
36.29.080 Repealed.  
36.29.110 City taxes.  
36.29.140 Repealed.  
36.29.180 Fees for handling, collecting, dispersing, and accounting for special assessments, fees, rates, or charges.

#### **36.29.010 General duties.** The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall indorse on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant" and when there are funds to redeem outstanding warrants shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession. [1991 c 245 § 4; 1963 c 4 § 36.29.010. Prior: (i) 1893 c 104 § 1; Code 1881 § 2740; 1863 p 553 § 3; 1854 p 427 § 3; RRS § 4109. (ii) Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110. (iii) Code 1881 § 2743; 1863 p 553 § 6; 1854 p 427 § 6; RRS § 4111. (iv) 1895 c 73 § 4; Code 1881 § 2744; 1863 p 553 § 7; 1854 p 427 § 7; RRS § 4113. (v) Code 1881 § 2745; 1863 p 553 § 8; RRS § 4114. (vi) 1893 c 104 § 3; Code 1881 § 2748; 1863 p 554 § 11; 1854 p 428 § 11; RRS § 4120.

(vii) Code 1881 § 2750; 1863 p 554 § 13; 1854 p 428 § 13; RRS § 4121. (viii) 1895 c 73 § 3; RRS § 4122.]

**36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee.** The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer. The county treasurer may invest in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, Five percent of the earnings, with an annual maximum of fifty dollars, on each transaction authorized by the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body: PROVIDED FURTHER, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national

mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That the county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited. [1991 c 245 § 5; 1984 c 177 § 7; 1982 c 73 § 1; 1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

**Construction—Severability—1969 ex.s. c 193:** See notes following RCW 39.58.010.

*Liability of treasurers for losses on public deposits: RCW 39.58.140.*  
*Public depositories: Chapter 39.58 RCW.*

**36.29.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.29.060 Warrant calls.** Whenever the county treasurer has funds belonging to any fund upon which "interest-bearing" warrants are outstanding, the treasurer shall have the discretion to call warrants. The county treasurer shall give notice as provided for in RCW 36.29.010(4). The treasurer shall pay on demand, in the order of their issue, any warrants when there shall be in the treasury sufficient funds applicable to such payment. [1991 c 245 § 6; 1985 c 469 § 44; 1980 c 100 § 4; 1963 c 4 § 36.29.060. Prior: 1895 c 152 § 1, part; RRS § 4118, part.]

**36.29.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.29.110 City taxes.** All city taxes and earnings on such taxes, as provided for in RCW 36.29.020, collected during the month shall be remitted to the city by the county treasurer on or before the tenth day of the following month. The county treasurer shall submit a statement of taxes collected with such remittance. To facilitate the investment of collected taxes, the treasurer may invest as provided for in RCW 36.29.020 without the necessity of the cities specifically requesting combining funds for the purposes of investment. [1991 c 245 § 7; 1963 c 4 § 36.29.110. Prior: 1905 c 157 § 1; 1895 c 160 § 2; 1893 c 71 § 5; RRS § 11322.]

**36.29.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.29.180 Fees for handling, collecting, dispersing, and accounting for special assessments, fees, rates, or charges.** The county treasurer, in all instances where required by law to handle, collect, disburse, and account for special assessments, fees, rates, or charges within the county, may charge and collect a fee for services not to exceed four dollars per parcel for each year in which the funds are collected. Such charges for services shall be based upon costs incurred by the treasurer in handling, collecting, disbursing, and accounting for the funds.

Such fees shall be a charge against the district and shall be credited to the county current expense fund by the county treasurer. [1991 c 245 § 8; 1963 c 4 § 36.29-.180. Prior: 1961 c 270 § 1.]

### Chapter 36.32

#### COUNTY COMMISSIONERS

##### Sections

36.32.010	Board of commissioners established—Quorum.
36.32.055	Five-member commission—When authorized—Ballot proposition—Petition—Procedures.
36.32.0552	Five-member commission—Newly created positions—How filled—County divided into five districts.
36.32.0554	Five-member commission—Newly created positions—Terms of initially elected commissioners.
36.32.0556	Five-member commissions—Four-year terms—Nominations by districts—Elected by entire county—Quorum.
36.32.0558	Five-member commissions—Vacancies.
36.32.070	Vacancies on board.
36.32.122	Authority to regulate massage practitioners—Limitations.
36.32.180	Repealed.
36.32.240	Competitive bids—Purchasing department.
36.32.245	Competitive bids—Requirements—Advertisements—Exceptions—Recycled materials.
36.32.250	Competitive bids—Contract procedure—Contracts under ten thousand dollars—Small works roster process.
36.32.253	Competitive bids—Leases.
36.32.256	Competitive bids—Multiple awards for road maintenance materials.
36.32.267	Competitive bids—Inapplicability to certain convention centers.
36.32.271	Repealed.
36.32.273	Repealed.
36.32.275	Repealed.
36.32.277	Repealed.
36.32.350	Coordination of county administrative programs—Coordinating agency—Agency reimbursement.
36.32.400	Health care and group insurance. (Effective January 1, 1992.)
36.32.500	Repealed.
36.32.505	Repealed.
36.32.570	Conservation area acquisition and maintenance.

**36.32.010 Board of commissioners established—Quorum.** There is established in each county in this state a board of county commissioners. Except as provided in RCW 36.32.055 and 36.32.0552, each board of county commissioners shall consist of three qualified electors,

two of whom shall constitute a quorum to do business. [1990 c 252 § 1; 1963 c 4 § 36.32.010. Prior: Code 1881 § 2663; 1869 p 303 § 1; 1867 p 52 § 1; 1863 p 540 § 1; 1854 p 420 § 1; RRS § 4036.]

**36.32.055 Five-member commission—When authorized—Ballot proposition—Petition—Procedures.** (1) The board of commissioners of any noncharter county with a population of three hundred thousand or more may cause a ballot proposition to be submitted at a general election to the voters of the county authorizing the board of commissioners to be increased to five members.

(2) As an alternative procedure, a ballot proposition shall be submitted to the voters of a noncharter county authorizing the board of commissioners to be increased to five members, upon petition of the county voters equal to at least ten percent of the voters voting at the last county general election. At least twenty percent of the signatures on the petition shall come from each of the existing commissioner districts.

Any petition requesting that such an election be held shall be submitted to the county auditor for verification of the signatures thereon. Within no more than thirty days after the submission of the petition, the auditor shall determine if the petition contains the requisite number of valid signatures. The auditor shall certify whether or not the petition has been signed by the requisite number of county voters and forward such petition to the board of county commissioners. If the petition has been signed by the requisite number of county voters, the board of county commissioners shall submit such a proposition to the voters for their approval or rejection at the next general election held at least sixty days after the proposition has been certified by the auditor. [1990 c 252 § 2.]

**36.32.0552 Five-member commission—Newly created positions—How filled—County divided into five districts.** If the ballot proposition receives majority voter approval, the size of the board of county commissioners shall be increased to five members as provided in this section.

The two newly created positions shall be filled at elections to be held in the next year. The county shall, as provided in this section, be divided into five commissioner districts, so that each district shall comprise as nearly as possible one-fifth of the population of the county. No two members of the existing board of county commissioners may, at the time of the designation of such districts, permanently reside in one of the five districts. The division of the county into five districts shall be accomplished as follows:

(1) The board of county commissioners shall, by the second Monday of March of the year following the election, adopt a resolution creating the districts;

(2) If by the second Tuesday of March of the year following the election the board of county commissioners has failed to create the districts, the prosecuting attorney of the county shall petition the superior court of the

county to appoint a referee to designate the five commissioner districts. The referee shall designate such districts by no later than June 1st of the year following the election. The two commissioner districts within which no existing member of the board of county commissioners permanently resides shall be designated as districts four and five. [1990 c 252 § 3.]

**36.32.0554 Five-member commission—Newly created positions—Terms of initially elected commissioners.** The terms of the persons who are initially elected to positions four and five under RCW 36.32.0552 shall be as follows:

(1) If the year in which the primary and general elections are held is an even-numbered year, the person elected to position four shall be elected for a two-year term, and the person elected to position five shall be elected for a four-year term; or

(2) If the year in which the primary and general elections are held is an odd-numbered year, the person elected to position four shall be elected for a one-year term, and the person elected to position five shall be elected for a three-year term.

The length of the terms shall be calculated from the first day of January in the year following the election. Each person elected pursuant to subsection (1) or (2) of this section shall take office immediately upon the issuance of a certificate of his or her election.

Thereafter, persons elected to commissioner positions four and five shall be elected for four-year terms and shall take office at the same time the other members of the board of county commissioners take office. [1990 c 252 § 4.]

**36.32.0556 Five-member commissions—Four-year terms—Nominations by districts—Elected by entire county—Quorum.** The commissioners in a five-member board of county commissioners shall be elected to four-year staggered terms. Each commissioner shall reside in a separate commissioner district. Each commissioner shall be nominated from a separate commissioner district by the voters of that district. Each shall be elected by the voters of the entire county. Three members of a five-member board of commissioners shall constitute a quorum to do business. [1990 c 252 § 5.]

**36.32.0558 Five-member commissions—Vacancies.** Vacancies on a board of county commissioners consisting of five members shall be filled as provided in RCW 36.32.070, except that:

(1) Whenever there are three or more vacancies, the governor shall appoint one or more commissioners until there are a total of three commissioners;

(2) Whenever there are two vacancies, the three commissioners shall fill one of the vacancies; and

(3) Whenever there is one vacancy, the four commissioners shall fill the single vacancy. [1990 c 252 § 6.]

**36.32.070 Vacancies on board.** Whenever there is a vacancy in the board of county commissioners, except as

provided in RCW 36.32.0558, it shall be filled as follows:

(1) If there are three vacancies, the governor of the state shall appoint two of the officers. The two commissioners thus appointed shall then meet and select the third commissioner. If the two appointed commissioners fail to agree upon selection of the third after the expiration of five days from the day they were appointed, the governor shall appoint the remaining commissioner.

(2) Whenever there are two vacancies in the office of county commissioner, the governor shall appoint one commissioner, and the two commissioners then in office shall appoint the third commissioner. If they fail to agree upon a selection after the expiration of five days from the day of the governor's appointment, the governor shall appoint the third commissioner.

(3) Whenever there is one vacancy in the office of county commissioner, the two remaining commissioners shall fill the vacancy. If the two commissioners fail to agree upon a selection after the expiration of five days from the day the vacancy occurred, the governor shall appoint the third commissioner. [1990 c 252 § 7; 1963 c 4 § 36.32.070. Prior: 1933 c 100 § 1; RRS § 4038-1.]

**36.32.122 Authority to regulate massage practitioners—Limitations.** (1) A state licensed massage practitioner seeking a county license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The county may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same county.

(3) A state licensed massage practitioner is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists. [1991 c 182 § 3.]

**36.32.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.240 Competitive bids—Purchasing department.** In any county the county legislative authority may by resolution establish a county purchasing department. The purchasing department shall contract on a competitive basis for all public works, enter into leases on a competitive basis, and purchase all supplies, materials, and equipment, on a competitive basis, for all departments of the county, except that the county purchasing department is not required to make purchases for the county hospital, or make purchases that are paid from the county road fund or equipment rental and revolving fund. [1991 c 363 § 57; 1985 c 169 § 8; 1983 c 3 § 77; 1974 ex.s. c 52 § 1; 1967 ex.s. c 144 § 15; 1963 c 4 § 36.32.240. Prior: 1961 c 169 § 1; 1949 c 33 § 1; 1945 c 61 § 1; Rem. Supp. 1949 § 10322-15.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

~~Severability~~—1967 ex.s. c 144: See note following RCW 36.900.030.

**36.32.245 Competitive bids—Requirements—Advertisements—Exceptions—Recycled materials.**

(1) No contract for the purchase of materials, equipment, supplies, or services may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. Bid specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the official newspaper of the county stating the time and place where bids will be opened, the time after which bids will not be received, the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority. The advertisement shall be published at least once at least ten days prior to the last date upon which bids will be received.

(2) The bids shall be in writing and filed with the clerk. The bids shall be opened and read in public at the time and place named in the advertisement. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between two thousand five hundred and twenty-five thousand dollars, the county legislative authority must use the uniform process to award contracts as provided in RCW 39.04.190.

(4) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW; or contracts and purchases for the printing of election ballots, voting machine labels, and all other election material containing the names of candidates and ballot titles.

(5) Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [1991 c 363 § 62.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

**36.32.250 Competitive bids—Contract procedure—Contracts under ten thousand dollars—Small works roster process.** No contract for public works may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the

work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper shall be sufficient. Such advertisements shall be published at least once at least ten days prior to the last date upon which bids will be received. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract involving less than ten thousand dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

For advertisement and competitive bidding to be dispensed with as to public works projects with an estimated value of one hundred thousand dollars or less, a county must use a small works roster process as provided in RCW 39.04.155.

This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW. [1991 c 363 § 58. Prior: 1989 c 431 § 57; 1989 c 244 § 6; prior: 1985 c 369 § 1; 1985 c 169 § 9; 1977 ex.s. c 267 § 1; 1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250; prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

~~Severability~~—1989 c 431: See RCW 70.95.901.

**Severability**—1967 ex.s. c 144: See note following RCW 36.900.030.

**36.32.253 Competitive bids—Leases.** No lease may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. The county shall use the same procedures specified in RCW 36.32.245 and 39.04.190 for awarding contracts for purchases when it leases property from the lowest responsible bidder. [1991 c 363 § 63.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.32.256 Competitive bids—Multiple awards for road maintenance materials.** A county when calling for competitive bids for the procurement of road maintenance materials may award to multiple bidders for the same commodity when the bid specifications provide for the factors of haul distance to be included in the determination of which vendor is truly the lowest price to the county. The county may readvertise for additional bidders and vendors if it deems it necessary in the public interest. [1991 c 363 § 61.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.32.267 Competitive bids—Inapplicability to certain convention centers.** RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to the selection of persons or entities in respect to convention centers undertaken under chapter 67.28 RCW by a county located in whole or in part in a national scenic area and the population of which is less than twenty thousand.

This section shall expire June 30, 1996. [1991 c 357 § 3.]

**Effective date, application**—1991 c 357: See note following RCW 67.28.080.

**36.32.271 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.273 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.275 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.277 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.350 Coordination of county administrative programs—Coordinating agency—Agency reimbursement.** County legislative authorities may designate the Washington state association of counties as a coordinating agency in the execution of duties imposed by RCW 36.32.335 through 36.32.360 and reimburse the association from county current expense funds in the county

legislative authority's budget for the costs of any such services rendered. Such reimbursement shall be paid on vouchers submitted to the county auditor and approved by the county legislative authority in the manner provided for the disbursement of other current expense funds and the vouchers shall set forth the nature of the service rendered, supported by affidavit that the service has actually been performed. [1991 c 363 § 59; 1973 1st ex.s. c 195 § 30; 1971 ex.s. c 85 § 3; 1970 ex.s. c 47 § 1; 1963 c 4 § 36.32.350. Prior: 1947 c 49 § 1; 1939 c 188 § 3; Rem. Supp. 1947 § 4077-4.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Severability—Effective dates—Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

*Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.*

*Merger of state association of counties with state association of county officials: RCW 36.47.070.*

*Winter recreation advisory committee, representative of association of counties as member: RCW 43.51.340.*

**36.32.400 Health care and group insurance.** (Effective January 1, 1992.) Subject to chapter 48.62 RCW, any county by a majority vote of its board of county commissioners may enter into contracts to provide health care services and/or group insurance for the benefit of its employees, and may pay all or any part of the cost thereof. Any two or more counties, by a majority vote of their respective boards of county commissioners may, if deemed expedient, join in the procuring of such health care services and/or group insurance, and the board of county commissioners of each participating county may, by appropriate resolution, authorize their respective counties to pay all or any portion of the cost thereof.

Nothing in this section shall impair the eligibility of any employee of a county, municipality, or other political subdivision under RCW 41.04.205. [1991 1st sp.s. c 30 § 21; 1975-'76 2nd ex.s. c 106 § 7; 1963 c 4 § 36.32.400. Prior: 1957 c 106 § 1; 1955 c 51 § 1.]

**Effective date, implementation, application—Severability**—1991 1st sp.s. c 30: See RCW 48.62.900 and 48.62.901.

**36.32.500 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.505 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.32.570 Conservation area acquisition and maintenance.** The legislative authority of each county may acquire a fee simple interest, or lesser interest, in conservation areas in the county and may maintain the conservation areas. The conservation areas may be acquired and maintained with moneys obtained from the excise tax under RCW 82.46.070, or any other moneys available for such purposes.

As used in this section, the term "conservation area" means land and water that has environmental, agricultural, aesthetic, cultural, scientific, historic, scenic, or

low-intensity recreational value for existing and future generations, and includes, but is not limited to, open spaces, wetlands, marshes, aquifer recharge areas, shoreline areas, natural areas, and other lands and waters that are important to preserve flora and fauna. [1990 1st ex.s. c 5 § 2.]

**Purpose**—1990 1st ex.s. c 5: "The purpose of this act is to provide a mechanism for the acquisition and maintenance of conservation areas through an orderly process that is approved by the voters of a county. The authorities provided in this act are supplemental, and shall not be construed to limit otherwise existing authorities." [1990 1st ex.s. c 5 § 1.]

### Chapter 36.33 COUNTY FUNDS

#### Sections

36.33.060	Salary fund—Reimbursement.
36.33.065	Claims fund—Reimbursement.
36.33.160	County lands assessment fund created—List of lands to be furnished.

**36.33.060 Salary fund—Reimbursement.** The county legislative authority of each county with a population of one hundred twenty-five thousand or more shall establish a salary fund to be used for paying the salaries and wages of all officials and employees. The county legislative authority of any other county may establish such a salary fund. Said salary fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for salaries and wages. The deposits shall be made in the exact amount of the payroll or vouchers paid from the salary fund. [1991 c 363 § 64; 1973 1st ex.s. c 38 § 1; 1971 ex.s. c 214 § 1; 1963 c 4 § 36.33.060. Prior: 1961 c 273 § 1; prior: (i) 1935 c 94 § 1; 1933 ex.s. c 14 § 1; RRS § 4201-1. (ii) 1933 ex.s. c 14 § 2; RRS § 4201-2. (iii) 1933 ex.s. c 14 § 3; RRS § 4201-3.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.33.065 Claims fund—Reimbursement.** The county legislative authority of any county may establish by resolution a fund to be known as the claims fund, which shall be used for paying claims against the county. Such claims fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for such expenditures. The deposits shall be made in the exact amount of the vouchers paid from the claims fund. [1991 c 363 § 65; 1973 1st ex.s. c 38 § 2; 1971 ex.s. c 214 § 2.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.33.160 County lands assessment fund created—List of lands to be furnished.** Upon request the county treasurer shall furnish to the county legislative authority a list of all lands owned by the county, together with the

amounts levied as assessments and the district in or by which such assessments are levied, against each description of the lands, as it appears on the assessment roll of the district. On or before the first day of August of each year, upon request, the treasurer shall furnish to the county legislative authority a similar list of all land owned by the county and subject to any such assessments, together with the amounts of any installment of assessments falling due against any of such lands in the ensuing year and an estimate of any maintenance or other assessments to be made against same to fall due in the ensuing year. [1991 c 245 § 9; 1963 c 4 § 36.33.160. Prior: 1929 c 193 § 5; RRS § 4027-5.]

### Chapter 36.34 COUNTY PROPERTY

#### Sections

36.34.020	Publication of notice of intention to sell.
36.34.050	Findings and determination—Minimum price.
36.34.080	Sales to be at public auction (as amended by 1991 c 245).
36.34.080	Sales to be at public auction (as amended by 1991 c 363).
36.34.090	Notice of sale.
36.34.100	Notice of sale—Requirements of.
36.34.135	Leases of county property—Farmworker housing.

**36.34.020 Publication of notice of intention to sell.** Whenever the county legislative authority desires to dispose of any county property except:

- (1) When selling to a governmental agency;
- (2) When personal property to be disposed of is to be traded in upon the purchase of a like article;
- (3) When the value of the property to be sold is less than two thousand five hundred dollars;

(4) When the county legislative authority by a resolution setting forth the facts has declared an emergency to exist; it shall publish notice of its intention so to do once each week during two successive weeks in a legal newspaper of general circulation in the county. [1991 c 363 § 66; 1985 c 469 § 45; 1967 ex.s. c 144 § 1; 1963 c 4 § 36.34.020. Prior: 1945 c 254 § 1; Rem. Supp. 1945 § 4014-1; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Severability**—1967 ex.s. c 144: See note following RCW 36.900.030.

**36.34.050 Findings and determination—Minimum price.** Within three days after the hearing upon a proposal to dispose of county property, the county legislative authority shall make its findings and determination thereon and cause them to be spread upon its minutes and made a matter of record. The county legislative authority may set a minimum sale price on property that is proposed for sale. [1991 c 363 § 67; 1963 c 4 § 36.34.050. Prior: 1945 c 254 § 4; Rem. Supp. 1945 § 4014-4; prior: 1891 c 76 § 3; RRS § 4009.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.34.080 Sales to be at public auction (as amended by 1991 c 245).** All sales of county property ordered after a public hearing upon the proposal to dispose thereof must be made by the county treasurer (~~at such place on county property as the board of county commissioners may direct~~) or treasurer's designee to the highest and best bidder at public auction. [1991 c 245 § 10; 1965 ex.s. c 23 § 1; 1963 c 4 § 36.34.080. Prior: 1945 c 254 § 7; Rem. Supp. 1945 § 4014-7; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

**36.34.080 Sales to be at public auction (as amended by 1991 c 363).** All sales of county property ordered after a public hearing upon the proposal to dispose thereof must be (~~made by the county treasurer at such place on county property as the board of county commissioners may direct to the highest and best bidder at public auction~~) supervised by the county treasurer and may be sold at a county or other government agency's public auction, at a privately operated consignment auction that is open to the public, or by sealed bid to the highest and best bidder over minimum sale price as directed by the county legislative authority. [1991 c 363 § 68; 1965 ex.s. c 23 § 1; 1963 c 4 § 36.34.080. Prior: 1945 c 254 § 7; Rem. Supp. 1945 § 4014-7; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

**Reviser's note:** RCW 36.34.080 was amended twice during the 1991 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

*Public auction sales, where held:* RCW 36.16.140.

**36.34.090 Notice of sale.** Whenever county property is to be sold at public auction, consignment auction, or sealed bid, the county auditor shall publish notice thereof once during each of two successive calendar weeks in a newspaper of general circulation in the county. Notice thereof must also be posted in a conspicuous place in the courthouse. The posting and date of first publication must be at least ten days before the day fixed for the sale. [1991 c 363 § 69; 1985 c 469 § 46; 1963 c 4 § 36.34.090. Prior: 1945 c 254 § 8; Rem. Supp. 1945 § 4014-8; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.34.100 Notice of sale—Requirements of.** The notice of sale of county property by auction sale must particularly describe the property to be sold and designate the day and hour and the location of the auction sale. The notice of sale of county property by sealed bid must describe the property to be sold, designate the date and time after which the bids are not received, the location to turn in the sealed bid, and the date, time, and location of the public meeting of the county legislative authority when the bids are opened and read in public. [1991 c 363 § 70; 1963 c 4 § 36.34.100. Prior: 1945 c 254 § 9; Rem. Supp. 1945 § 4014-9; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.34.135 Leases of county property—Farmworker housing.** If a county owns property that is located anywhere within the county, including within the limits of a city or town, and that is suitable for seasonal or migrant farmworker housing, the legislative authority of the county may, by negotiation, lease the property for

seasonal or migrant farmworker housing for a term not to exceed seventy-five years to any public housing authority or nonprofit organization that has demonstrated its ability to construct or operate housing for seasonal or migrant farmworkers. Leases for housing for migrant and seasonal farmworkers shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rents as appear reasonable considering the public, social, and health benefits to be derived by providing an adequate supply of safe and sanitary housing for migrant and seasonal farmworkers. [1990 c 253 § 7.]

**Legislative finding and purpose—1990 c 253:** See note following RCW 43.70.330.

**Chapter 36.36**

**AQUIFER PROTECTION AREAS**

Sections	
36.36.010	Purpose.
36.36.040	Use of fee revenues.

**36.36.010 Purpose.** The protection of subterranean water from pollution or degradation is of great concern. The depletion of subterranean water is of great concern. The purpose of this chapter is to allow the creation of aquifer protection areas to finance the protection, preservation, and rehabilitation of subterranean water, and to reduce special assessments imposed upon households to finance facilities for such purposes. Pollution and degradation of subterranean drinking water supplies, and the depletion of subterranean drinking water supplies, pose immediate threats to the safety and welfare of the citizens of this state. [1991 c 151 § 1; 1985 c 425 § 1.]

**36.36.040 Use of fee revenues.** Aquifer protection areas may impose fees to fund:

(1) The preparation of a comprehensive plan to protect, preserve, and rehabilitate subterranean water, including ground water management programs adopted under chapter 90.44 RCW. This plan may be prepared as a portion of a county sewerage and/or water general plan pursuant to RCW 36.94.030;

(2) The construction of facilities for: (a) The removal of water-borne pollution; (b) water quality improvement; (c) sanitary sewage collection, disposal, and treatment; (d) storm water or surface water drainage collection, disposal, and treatment; and (e) the construction of public water systems;

(3) The proportionate reduction of special assessments imposed by a county, city, town, or special district in the aquifer protection area for any of the facilities described in subsection (2) of this section;

(4) The costs of monitoring and inspecting on-site sewage disposal systems or community sewage disposal systems for compliance with applicable standards and rules, and for enforcing compliance with these applicable standards and rules in aquifer protection areas created after June 9, 1988; and

(5) The costs of: (a) Monitoring the quality and quantity of subterranean water and analyzing data that is collected; (b) ongoing implementation of the comprehensive plan developed under subsection (1) of this section; (c) enforcing compliance with standards and rules relating to the quality and quantity of subterranean waters; and (d) public education relating to protecting, preserving, and enhancing subterranean waters. [1991 c 151 § 2; 1988 c 258 § 1; 1985 c 425 § 4.]

### Chapter 36.47

## COORDINATION OF ADMINISTRATIVE PROGRAMS

#### Sections

36.47.040 Reimbursement for costs and expenses to state association of county officials.

**36.47.040 Reimbursement for costs and expenses to state association of county officials.** Each county which designates the Washington state association of county officials as the agency through which the duties imposed by RCW 36.47.020 may be executed is authorized to reimburse the association from the county current expense fund for the cost of any such services rendered: PROVIDED, That no reimbursement shall be made to the association for any expenses incurred under RCW 36.47.050 for travel, meals, or lodging of such county officials, or their representatives at such meetings, but such expenses may be paid by such official's respective county as other expenses are paid for county business. Such reimbursement shall be paid only on vouchers submitted to the county auditor and approved by the legislative authority of each county in the manner provided for the disbursement of other current expense funds. Each such voucher shall set forth the nature of the services rendered by the association, supported by affidavit that the services were actually performed. [1991 c 363 § 71; 1977 ex.s. c 221 § 1; 1973 1st ex.s. c 195 § 35; 1970 ex.s. c 47 § 2; 1969 ex.s. c 5 § 3; 1963 c 4 § 36.47.040. Prior: 1959 c 130 § 4.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—Effective dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

### Chapter 36.48

## DEPOSITARIES

#### Sections

36.48.070 County finance committee created—Committee shall approve county investment policy—Records, rules and regulations.

**36.48.070 County finance committee created—Committee shall approve county investment policy—Records, rules and regulations.** The county treasurer, the county auditor, and the chair of the county legislative authority, ex officio, shall constitute the county finance committee. The county treasurer shall act as chair of the

[1990-91 RCW Supp—page 810]

committee and the county auditor as secretary thereof. The committee shall keep a full and complete record of all its proceedings in appropriate books of record and all such records and all correspondence relating to the committee shall be kept in the office of the county auditor and shall be open to public inspection. The committee shall approve county investment policy and shall make appropriate rules and regulations for the carrying out of the provisions of RCW 36.48.010 through 36.48.060, not inconsistent with law. [1991 c 245 § 11; 1963 c 4 § 36.48.070. Prior: 1933 ex.s. c 45 § 2; RRS § 5567-1.]

### Chapter 36.56

## METROPOLITAN MUNICIPAL CORPORATION FUNCTIONS, ETC.—ASSUMPTION BY COUNTIES

#### Sections

36.56.010 Assumption of rights, powers, functions, and obligations authorized.

**36.56.010 Assumption of rights, powers, functions, and obligations authorized.** Any county with a population of two hundred ten thousand or more in which a metropolitan municipal corporation has been established pursuant to chapter 35.58 RCW with boundaries coterminous with the boundaries of the county may by ordinance or resolution, as the case may be, of the county legislative authority assume the rights, powers, functions, and obligations of such metropolitan municipal corporation in accordance with the provisions of \*this 1977 amendatory act. The definitions contained in RCW 35.58.020 shall be applicable to this chapter. [1991 c 363 § 72; 1977 ex.s. c 277 § 1.]

\*Reviser's note: "this 1977 amendatory act" or "this act" [1977 ex.s. c 277] consists of chapter 36.56 RCW and the amendment to RCW 35.58.020 by 1977 ex.s. c 277.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.57A

## PUBLIC TRANSPORTATION BENEFIT AREAS

#### Sections

36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences.  
36.57A.040 Cities wholly included or excluded—Boundaries—Only benefited areas included—One area per county, exception.  
36.57A.055 Governing body—Periodic review of composition.  
36.57A.140 Annexation of additional area.

**36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences.** The county legislative authority of every county with a population of forty thousand or more shall, and the legislative authority of every other county may, within ninety days of July 1, 1975, and as often thereafter as it deems necessary, and upon thirty days prior written notice addressed to the legislative body of each city within the county and with thirty days public

notice, convene a public transportation improvement conference to be attended by an elected representative selected by the legislative body of each city, within such county, and by the county legislative authority. Such conference shall be for the purpose of evaluating the need for and the desirability of the creation of a public transportation benefit area within certain incorporated and unincorporated portions of the county to provide public transportation services within such area. In those counties where county officials believe the need for public transportation service extends across county boundaries so as to provide public transportation service in a metropolitan area, the county legislative bodies of two or more neighboring counties may elect to convene a multi-county conference. In addition, county-wide conferences may be convened by resolution of the legislative bodies of two or more cities within the county, not to exceed one in any twelve month period, or a petition signed by at least ten percent of the registered voters in the last general election of the city, county or city/county areas of a proposed benefit area. The chair of the conference shall be elected from the members at large. [1991 c 363 § 73; 1975 1st ex.s. c 270 § 12.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—Effective date—1975 1st ex.s. c 270:** See notes following RCW 35.58.272.

**36.57A.040 Cities wholly included or excluded—Boundaries—Only benefited areas included—One area per county, exception.** At the time of its formation no public transportation benefit area may include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such area. Notwithstanding any other provision of law, if subsequent to the formation of a public transportation benefit area additional area became or will become a part of a component city by annexation, merger, or otherwise, the additional area shall be included within the boundaries of the transportation benefit area and be subject to all taxes and other liabilities and obligations of the public transportation benefit area. The component city shall be required to notify the public transportation benefit area at the time the city has added the additional area. Furthermore, notwithstanding any other provisions of law, if a city that is not a component city of the public transportation benefit area adds area to its boundaries that is within the boundaries of the public transportation benefit area, the area so added shall be deemed to be excluded from the public transportation benefit area: PROVIDED, That the public transportation benefit area shall be given notice of the city's intention to add such area.

The boundaries of any public transportation benefit area shall follow school district lines or election precinct lines, as far as practicable. Only such areas shall be included which the conference determines could reasonably benefit from the provision of public transportation services. Except as provided in RCW 36.57A.140(2),

only one public transportation benefit area may be created in any county. [1991 c 318 § 15; 1983 c 65 § 2; 1975 1st ex.s. c 270 § 14.]

**Intent—1991 c 318:** "The legislature recognizes that certain communities have important cultural, economic, or transportation linkages to communities in other counties. Many public services can most efficiently be delivered from public agencies located in counties other than the county within which the community is located. It is the intent of the legislature by enacting sections 15 through 17 of this act to further more effective public transportation linkages between communities, regardless of county association, in order to better serve state citizen needs." [1991 c 318 § 14.] Sections 15 through 17 of this act are the 1991 c 318 amendments to RCW 36.57A.040, 36.57A.055, and 36.57A.140.

**Severability—Effective date—1975 1st ex.s. c 270:** See notes following RCW 35.58.272.

**36.57A.055 Governing body—Periodic review of composition.** After a public transportation benefit area has been in existence for four years, members of the county legislative authority and the elected representative of each city within the boundaries of the public transportation benefit area shall review the composition of the governing body of the benefit area and change the composition of the governing body if the change is deemed appropriate. The review shall be at a meeting of the designated representatives of the component county and cities, and the majority of those present shall constitute a quorum at such meeting. Twenty days notice of the meeting shall be given by the chief administrative officer of the public transportation benefit area authority. After the initial review, a review shall be held every four years.

If an area having a population greater than fifteen percent, or areas with a combined population of greater than twenty-five percent of the population of the existing public transportation benefit area as constituted at the last review meeting, annex to the public transportation benefit area, or if an area is added under RCW 36.57A.140(2), the representatives of the component county and cities shall meet within ninety days to review and change the composition of the governing body, if the change is deemed appropriate. This meeting is in addition to the regular four-year review meeting and shall be conducted pursuant to the same notice requirement and quorum provisions of the regular review. [1991 c 318 § 16; 1983 c 65 § 4.]

**Intent—1991 c 318:** See note following RCW 36.57A.040.

**36.57A.140 Annexation of additional area.** (1) An election to authorize the annexation of territory contiguous to a public transportation benefit area may be called within the area to be annexed pursuant to resolution or petition in the following manner:

(a) By resolution of a public transportation benefit area authority when it determines that the best interests and general welfare of the public transportation benefit area would be served. The authority shall consider the question of areas to be annexed to the public transportation benefit area at least once every two years.

(b) By petition calling for such an election signed by at least four percent of the qualified voters residing within the area to be annexed and filed with the auditor

of the county wherein the largest portion of the public transportation benefit area is located, and notice thereof shall be given to the authority. Upon receipt of such a petition, the auditor shall examine it and certify to the sufficiency of the signatures thereon.

(c) By resolution of a public transportation benefit area authority upon request of any city for annexation thereto.

(2) If the area proposed to be annexed is located within another county, the petition or resolution for annexation as set forth in subsection (1) of this section must be approved by the legislative authority of the county if the area is unincorporated or by the legislative authority of the city or town if the area is incorporated. Any annexation under this subsection must involve contiguous areas.

(3) The resolution or petition shall describe the boundaries of the area to be annexed. It shall require that there also be submitted to the electorate of the territory sought to be annexed a proposition authorizing the inclusion of the area within the public transportation benefit area and authorizing the imposition of such taxes authorized by law to be collected by the authority. [1991 c 318 § 17; 1983 c 65 § 5; 1975 1st ex.s. c 270 § 24.]

**Intent—1991 c 318:** See note following RCW 36.57A.040.

**Severability—Effective date—1975 1st ex.s. c 270:** See notes following RCW 35.58.272.

## Chapter 36.58 SOLID WASTE DISPOSAL

### Sections

36.58.030	"Transfer station" defined.
36.58.090	Contracts with vendors for solid waste handling systems, plants, sites, or facilities—Requirements—Vendor selection procedures.
36.58.100	Solid waste disposal district—Authorized—Boundaries—Powers—Governing body.

**36.58.030 "Transfer station" defined.** As used in RCW 36.58.030 through 36.58.060, the term "transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. This does not include detachable containers, except in counties with a population of less than seventy thousand, and in any county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand that is located east of the crest of the Cascade mountain range, where detachable containers shall be securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, charge a tipping fee that shall cover the cost of providing and for use of the service, and shall be operated as a transfer station. [1991 c 363 § 74; 1989 c 431 § 27; 1975-'76 2nd ex.s. c 58 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1989 c 431:** See RCW 70.95.901.

**36.58.090 Contracts with vendors for solid waste handling systems, plants, sites, or facilities—Requirements—Vendor selection procedures.** (1) Notwithstanding the provisions of any county charter or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a county may contract with one or more vendors for one or more of the design, construction, or operation of, or other service related to, the solid waste handling systems, plants, sites, or other facilities in accordance with the procedures set forth in this section. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accord with chapter 39.80 RCW. For the purpose of this chapter, the term "legislative authority" shall mean the board of county commissioners or, in the case of a home rule charter county, the official, officials, or public body designated by the charter to perform the functions authorized therein.

(2) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals for services from vendors, the county shall publish notice of its requirements and request submission of qualifications statements or proposals. The notice shall be published in the official newspaper of the county at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the design, construction, operation, or other service, (b) the name and address of a representative of the county who can provide further details, (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more

detailed proposals from one or more vendors who have submitted qualifications statements, or the representative may request detailed proposals without having first received and evaluated qualifications statements. The representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the county, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the county, the representative shall recommend to the legislative authority a vendor or vendors that are initially determined to be the best qualified to provide one or more of the design, construction, or operation of, or other service related to, the proposed project or services. The legislative authority may select one or more qualified vendors for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative may attempt to negotiate a contract with the vendor or vendors selected for one or more of the design, construction, or operation of, or other service related to, the proposed project or services on terms that the legislative authority determines to be fair and reasonable and in the best interest of the county. If the legislative authority or its representative is unable to negotiate such a contract with any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the county, negotiations with any one or more of the vendors shall be terminated or suspended and another qualified vendor or vendors may be selected in accordance with the procedures set forth in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(6) Prior to entering into a contract with a vendor, the legislative authority of the county shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract, that the contract is financially sound, and that it is advantageous for the county to use this method for awarding contracts compared to other methods.

(7) Each contract shall include a project performance bond or bonds or other security by the vendor that in the judgment of the legislative authority of the county is sufficient to secure adequate performance by the vendor.

(8) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall apply to a contract entered into under this

section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law. [1989 c 399 § 10; 1986 c 282 § 19.]

**Construction of 1986 c 282 § 19—1990 c 279:** "Section 19, chapter 282, Laws of 1986, codified as RCW 36.58.090, established an alternate procedure by which a county was authorized to procure systems and plants for solid waste handling and to contract with private vendors for the design, construction, or operation thereof. Any county with a population of over one hundred thousand that, prior to the effective date of chapter 399, Laws of 1989 [July 23, 1989], complied with the requirements of either (1) section 10 (3), (4), and (5), chapter 399, Laws of 1989, or (2) section 19(3), chapter 282, Laws of 1986, shall be deemed to have complied with the requirements of section 19(3), chapter 282, Laws of 1986." [1990 c 279 § 1.]

**Severability—Legislative findings—Construction—Liberal construction—Supplemental powers—1986 c 282:** See notes following RCW 35.21.156.

### **36.58.100 Solid waste disposal district—Authorized—Boundaries—Powers—Governing body.**

The legislative authority of any county with a population of less than one million is authorized to establish one or more solid waste disposal districts within the county for the purpose of providing and funding solid waste disposal services. No solid waste disposal district may include any area within the corporate limits of a city or town unless the city or town governing body adopts a resolution approving inclusion of the area within its limits. The county legislative authority may modify the boundaries of the solid waste disposal district by the same procedure used to establish the district. A solid waste disposal district may be dissolved by the county legislative authority after holding a hearing as provided in RCW 36.58.110.

As used in RCW 36.58.100 through 36.58.150 the term "county" includes all counties other than a county with a population of one million or more.

A solid waste disposal district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A solid waste disposal district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute: PROVIDED, That a solid waste disposal district shall not have the power of eminent domain.

The county legislative authority shall be the governing body of a solid waste disposal district. The electors of a solid waste disposal district shall be all registered voters residing within the district. [1991 c 363 § 75; 1982 c 175 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1982 c 175:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 175 § 9.]

### Chapter 36.62 HOSPITALS

## Sections

36.62.300 Work ordered and materials purchased.

**36.62.300 Work ordered and materials purchased.** All work ordered and materials purchased by a hospital shall be subject to the requirements established in RCW 70.44.140 for public hospital districts. [1991 c 363 § 76.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.64 JOINT GOVERNMENTAL ACTIVITIES

## Sections

36.64.060 Joint canal construction.  
36.64.070 Counties with populations of two hundred ten thousand or more—Contracts with cities concerning buildings and related improvements.

**36.64.060 Joint canal construction.** Whenever the county legislative authority of a county with a population of one hundred twenty-five thousand or more deems it for the interest of the county to construct or to aid the United States in constructing a canal to connect any bodies of water within the county, such county may construct such canal or aid the United States in constructing it and incur indebtedness for such purpose to an amount not exceeding five hundred thousand dollars and issue its negotiable bonds therefor in the manner and form provided in RCW 36.67.010. Such construction or aid in construction is a county purpose. [1991 c 363 § 77; 1985 c 7 § 105; 1983 c 3 § 78; 1963 c 4 § 36.64.060. Prior: (i) 1907 c 158 § 1; RRS § 9664. (ii) 1907 c 158 § 2; RRS § 9665.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.64.070 Counties with populations of two hundred ten thousand or more—Contracts with cities concerning buildings and related improvements.** Any county with a population of two hundred ten thousand or more may contract with any city or cities within such county for the financing, erection, ownership, use, lease, operation, control or maintenance of any building or buildings, including open spaces, off-street parking facilities for the use of county and city employees and persons doing business with such county or city, plazas and other improvements incident thereto, for county or city, or combined county-city, or other public use. Property for such buildings and related improvements may be acquired by either such county or city or by both by lease, purchase, donation, exchange, and/or gift or by eminent domain in the manner provided by law for the exercise of such power by counties and cities respectively and any property acquired hereunder, together with the improvements

thereon, may be sold, exchanged or leased, as the interests of said county, city or cities may from time to time require. [1991 c 363 § 78; 1965 c 24 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.69 RECREATION DISTRICTS ACT

## Sections

36.69.010 Park and recreation districts authorized—"Recreational facilities" defined.

**36.69.010 Park and recreation districts authorized—"Recreational facilities" defined.** Park and recreation districts are hereby authorized to be formed as municipal corporations for the purpose of providing leisure time activities and facilities and recreational facilities, of a nonprofit nature as a public service to the residents of the geographical areas included within their boundaries.

The term "recreational facilities" means parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, senior citizen centers, community centers, and other recreational facilities. [1991 c 363 § 79; 1990 c 32 § 1; 1972 ex.s. c 94 § 1; 1969 c 26 § 1; 1967 c 63 § 1; 1963 c 4 § 36.69.010. Prior: 1961 c 272 § 1; 1959 c 304 § 1; 1957 c 58 § 1.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.70 PLANNING ENABLING ACT

## Sections

36.70.540 Referral procedure—Reports.  
36.70.545 Development regulations—Consistency with comprehensive plan.

**36.70.540 Referral procedure—Reports.** Whenever a county legislative authority has approved by motion and certified all or part of a comprehensive plan, no road, square, park or other public ground or open space shall be acquired by dedication or otherwise and no public building or structure shall be constructed or authorized to be constructed in the area to which the comprehensive plan applies until its location, purpose and extent has been submitted to and reported upon by the planning agency. The report by the planning agency shall set forth the manner and the degree to which the proposed project does or does not conform to the objectives of the comprehensive plan. If final authority is vested by law in some governmental officer or body other than the county legislative authority, such officer or governmental body shall report the project to the planning agency and the planning agency shall render its

report to such officer or governmental body. In both cases the report of the planning agency shall be advisory only. Failure of the planning agency to report on such matter so referred to it within forty days or such longer time as the county legislative authority or other governmental officer or body may indicate, shall be deemed to be approval. [1991 c 363 § 80; 1963 c 4 § 36.70.540. Prior: 1959 c 201 § 54.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.70.545 Development regulations—Consistency with comprehensive plan.** Beginning July 1, 1992, the development regulations of each county that does not plan under RCW 36.70A.040 shall not be inconsistent with the county's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030. [1990 1st ex.s. c 17 § 24.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

## Chapter 36.70A

### GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES

#### Sections

36.70A.010	Legislative findings.
36.70A.020	Planning goals.
36.70A.030	Definitions.
36.70A.040	Who must plan.
36.70A.045	Phasing of comprehensive plan submittal.
36.70A.050	Guidelines to classify agriculture, forest, and mineral lands and critical areas.
36.70A.060	Natural resource lands and critical areas—Development regulations.
36.70A.070	Comprehensive plans—Mandatory elements.
36.70A.080	Comprehensive plans—Optional elements.
36.70A.090	Comprehensive plans—Innovative techniques.
36.70A.100	Comprehensive plans—Must be coordinated.
36.70A.103	State agencies required to comply with comprehensive plans.
36.70A.106	Comprehensive plans—Development regulations—Transmittal to state.
36.70A.110	Comprehensive plans—Urban growth areas.
36.70A.120	Development regulations and capital plans—Implementation in conformity with comprehensive plan.
36.70A.130	Comprehensive plans—Amendments.
36.70A.140	Comprehensive plans—Ensure public participation.
36.70A.150	Identification of lands useful for public purposes.
36.70A.160	Identification of open space corridors—Purchase authorized.
36.70A.170	Natural resource lands and critical areas—Designations.
36.70A.180	Report on planning progress.
36.70A.190	Technical assistance, grants, and mediation services.
36.70A.200	Siting of essential public facilities.
36.70A.210	County-wide planning policies.
36.70A.250	Growth planning hearings boards.
36.70A.260	Growth planning hearings boards—Qualifications.
36.70A.270	Growth planning hearings boards—Conduct, procedure, and compensation.
36.70A.280	Matters subject to board review.
36.70A.290	Petitions to growth planning hearings boards—Evidence.
36.70A.300	Final orders.
36.70A.310	Limitations on appeal by the state.

36.70A.320	Presumption of validity—Burden of proof—Plans and regulations.
36.70A.330	Noncompliance.
36.70A.340	Noncompliance and sanctions.
36.70A.350	New fully contained communities.
36.70A.360	Master planned resorts.
36.70A.370	Protection of private property.
36.70A.380	Extension of designation date.
36.70A.385	Environmental planning pilot projects.
36.70A.800	Role of growth strategies commission.
36.70A.900	Severability—1990 1st ex.s. c 17.
36.70A.901	Part, section headings not law—1990 1st ex.s. c 17.
36.70A.902	Section headings not law—1991 1st sp.s. c 32.

**36.70A.010 Legislative findings.** The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning. Further, the legislature finds that it is in the public interest that economic development programs be shared with communities experiencing insufficient economic growth. [1990 1st ex.s. c 17 § 1.]

**36.70A.020 Planning goals.** The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) **Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) **Transportation.** Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) **Economic development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) **Property rights.** Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance. [1990 1st ex.s. c 17 § 2.]

**36.70A.030 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community development.

(7) "Development regulations" means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances.

(8) "Forest land" means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(16) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from

nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city. [1990 1st ex.s. c 17 § 3.]

**36.70A.040 Who must plan.** (1) Each county that has both a population of fifty thousand or more and has had its population increase by more than ten percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall adopt comprehensive land use plans and development regulations under this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990. Once a county meets either of these criteria, the requirement to conform with RCW 36.70A.040 through 36.70A.160 remains in effect, even if the county no longer meets one of these criteria.

(2) The county legislative authority of any county that does not meet the requirements of subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall adopt a comprehensive land use plan in accordance with this chapter. Once such a resolution has been adopted, the county cannot remove itself from the requirements of this chapter.

(3) Any county or city that is required to adopt a comprehensive land use plan under subsection (1) of this section shall adopt the plan on or before July 1, 1993. Any county or city that is required to adopt a comprehensive land use plan under subsection (2) of this section shall adopt the plan not later than three years from the date the county legislative body takes action as required by subsection (2) of this section.

(4) If the office of financial management certifies that the population of a county has changed sufficiently to meet the requirements of subsection (1) of this section, and the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall adopt: (a) Development regulations under RCW 36.70A.060 within one year of the certification by the office of financial management; (b) a comprehensive land use plan under this chapter within three years of the certification by the office of financial management; and (c) development regulations pursuant to this chapter within one year of having adopted its comprehensive land use plan. [1990 1st ex.s. c 17 § 4.]

**36.70A.045 Phasing of comprehensive plan submittal.** The department may adopt a schedule to permit phasing of comprehensive plan submittal for counties and cities planning under RCW 36.70A.040. This schedule shall not permit a comprehensive plan to be submitted greater than one hundred eighty days past the date that the plan was required to be submitted and shall be used to facilitate expeditious review and interjurisdictional coordination of comprehensive plans and development regulations. [1991 1st sp.s. c 32 § 15.]

**36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas.** (1) Subject to the definitions provided in RCW 36.70A.030, the department shall adopt guidelines, under chapter 34.05 RCW, no later than September 1, 1990, to guide the classification of: (a) Agricultural lands; (b) forest lands; (c) mineral resource lands; and (d) critical areas. The department shall consult with the department of agriculture regarding guidelines for agricultural lands, the department of natural resources regarding forest lands and mineral resource lands, and the department of ecology regarding critical areas.

(2) In carrying out its duties under this section, the department shall consult with interested parties, including but not limited to: (a) Representatives of cities; (b) representatives of counties; (c) representatives of developers; (d) representatives of builders; (e) representatives of owners of agricultural lands, forest lands, and mining lands; (f) representatives of local economic development officials; (g) representatives of environmental organizations; (h) representatives of special districts; (i) representatives of the governor's office and federal and state agencies; and (j) representatives of Indian tribes. In addition to the consultation required under this subsection, the department shall conduct public hearings in the various regions of the state. The department shall consider the public input obtained at such public hearings when adopting the guidelines.

(3) The guidelines under subsection (1) of this section shall be minimum guidelines that apply to all jurisdictions, but also shall allow for regional differences that exist in Washington state. The intent of these guidelines is to assist counties and cities in designating the classification of agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170.

(4) The guidelines established by the department under this section regarding classification of forest lands shall not be inconsistent with guidelines adopted by the department of natural resources. [1990 1st ex.s. c 17 § 5.]

**36.70A.060 Natural resource lands and critical areas—Development regulations.** (1) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their

adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.120. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within three hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights. [1991 1st sp.s. c 32 § 21; 1990 1st ex.s. c 17 § 6.]

**36.70A.070 Comprehensive plans—Mandatory elements.** The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide

for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element recognizing the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, and objectives for the preservation, improvement, and development of housing; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit land uses that are compatible with the rural character of such lands and provide for a variety of rural densities.

(6) A transportation element that implements, and is consistent with, the land use element. The transportation element shall include the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Facilities and services needs, including:

(i) An inventory of air, water, and land transportation facilities and services, including transit alignments, to define existing capital facilities and travel levels as a basis for future planning;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

The transportation element described in this subsection, and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, must be consistent. [1990 1st ex.s. c 17 § 7.]

**36.70A.080 Comprehensive plans—Optional elements.** (1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

(b) Solar energy; and

(c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan. [1990 1st ex.s. c 17 § 8.]

**36.70A.090 Comprehensive plans—Innovative techniques.** A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights. [1990 1st ex.s. c 17 § 9.]

**36.70A.100 Comprehensive plans—Must be coordinated.** The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues. [1990 1st ex.s. c 17 § 10.]

**36.70A.103 State agencies required to comply with comprehensive plans.** State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter. [1991 1st sp.s. c 32 § 4.]

**36.70A.106 Comprehensive plans—Development regulations—Transmittal to state.** (1) Each county and city proposing adoption of a comprehensive plan or development regulations under this chapter shall notify the department of its intent to adopt such plan or regulations at least sixty days prior to final adoption. State agencies including the department may provide comments to the county or city on the proposed comprehensive plan, or proposed development regulations, during the public review process prior to adoption.

(2) Each county and city planning under this chapter shall transmit a complete and accurate copy of its comprehensive plan or development regulations to the department within ten days after final adoption.

(3) Any amendments for permanent changes to a comprehensive plan or development regulation that are proposed by a county or city to its adopted plan or regulations shall be submitted to the department in the same manner as initial plans and development regulations under this section. Any amendments to a comprehensive plan or development regulations that are adopted by a county or city shall be transmitted to the department in the same manner as the initial plans and regulations under this section. [1991 1st sp.s. c 32 § 8.]

**36.70A.110 Comprehensive plans—Urban growth areas.** (1) Each county that is required or chooses to adopt a comprehensive land use plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(2) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. Within one year of July 1, 1990, each county required to designate urban growth areas shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas. [1991 1st sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

**36.70A.120 Development regulations and capital plans—Implementation in conformity with comprehensive plan.** Within one year of the adoption of its comprehensive plan, each county and city that is required or chooses to plan under RCW 36.70A.040 shall enact development regulations that are consistent with and implement the comprehensive plan. These counties and cities shall perform their activities and make capital budget decisions in conformity with their comprehensive plans. [1990 1st ex.s. c 17 § 12.]

**36.70A.130 Comprehensive plans—Amendments.**

(1) Each comprehensive land use plan and development regulations shall be subject to continuing evaluation and review by the county or city that adopted them.

Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

(2) Each county and city shall establish procedures whereby proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. All proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, a county or city

may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. [1990 1st ex.s. c 17 § 13.]

**36.70A.140 Comprehensive plans—Ensure public participation.** Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. Errors in exact compliance with the established procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the procedures is observed. [1990 1st ex.s. c 17 § 14.]

**36.70A.150 Identification of lands useful for public purposes.** Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify lands useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, storm water management facilities, recreation, schools, and other public uses. The county shall work with the state and the cities within its borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed.

The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule. [1991 c 322 § 23; 1990 1st ex.s. c 17 § 15.]

**Findings—Intent—1991 c 322:** See notes following RCW 86.12.200.

**36.70A.160 Identification of open space corridors—Purchase authorized.** Each county and city that

is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.

The city or county may seek to acquire by purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources. [1990 1st ex.s. c 17 § 16.]

**36.70A.170 Natural resource lands and critical areas—Designations.** (1) On or before September 1, 1991, each county, and each city, shall designate where appropriate:

(a) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;

(b) Forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;

(c) Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and

(d) Critical areas.

(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050. [1990 1st ex.s. c 17 § 17.]

**36.70A.180 Report on planning progress.** (1) It is the intent of the legislature that counties and cities required to adopt a comprehensive plan under RCW 36.70A.040(1) begin implementing this chapter on or before July 1, 1990, including but not limited to: (a) Inventorying, designating, and conserving agricultural, forest, and mineral resource lands, and critical areas; and (b) considering the modification or adoption of comprehensive land use plans and development regulations implementing the comprehensive land use plans. It is also the intent of the legislature that funds be made available to counties and cities beginning July 1, 1990, to assist them in meeting the requirements of this chapter.

(2) Each county and city that adopts a plan under RCW 36.70A.040 (1) or (2) shall report to the department annually for a period of five years, beginning on January 1, 1991, and each five years thereafter, on the progress made by that county or city in implementing this chapter. [1990 1st ex.s. c 17 § 19.]

**36.70A.190 Technical assistance, grants, and mediation services.** (1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, and other relevant factors.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140. [1991 1st sp.s. c 32 § 3; 1990 1st ex.s. c 17 § 20.]

**36.70A.200 Siting of essential public facilities.** (1) The comprehensive plan of each county and city that is planning under this chapter shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(2) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The

office of financial management may at any time add facilities to the list. No local comprehensive plan or development regulation may preclude the siting of essential public facilities. [1991 1st sp.s. c 32 § 1.]

**36.70A.210 County-wide planning policies.** (1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a county-wide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of the county shall convene a meeting with representatives of each city for the purpose of establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy;

(b) The process and framework for adoption of a county-wide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities associated therewith;

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340;

(d) If there is no agreement by October 1, 1991, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction; and

(e) No later than July 1, 1992, the legislative authority of the county shall adopt a county-wide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed county-wide planning policy.

(3) A county-wide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a county-wide or state-wide nature;

(d) Policies for county-wide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for county-wide economic development and employment; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process. Adopted county-wide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a county-wide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall specify the reasons for failure to adopt a county-wide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a county-wide planning policy.

(6) Cities and the governor may appeal an adopted county-wide planning policy to the growth planning hearings board within sixty days of the adoption of the county-wide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region. [1991 1st sp.s. c 32 § 2.]

**36.70A.250 Growth planning hearings boards.** (1)

There are hereby created three growth planning hearings boards for the state of Washington. The boards shall be established as follows:

(a) An Eastern Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains;

(b) A Central Puget Sound board with jurisdictional boundaries including King, Pierce, Snohomish, and Kitsap counties; and

(c) A Western Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located west of the crest of the Cascade mountains and are not included in the Central Puget Sound board jurisdictional boundaries. Skamania county, should it be required or

choose to plan under RCW 36.70A.040, may elect to be included within the jurisdictional boundaries of either the Western or Eastern board.

(2) Each board shall only hear matters pertaining to the cities and counties located within its jurisdictional boundaries. [1991 1st sp.s. c 32 § 5.]

### **36.70A.260 Growth planning hearings boards—**

**Qualifications.** (1) Each growth planning hearings board shall consist of three members qualified by experience or training in matters pertaining to land use planning and residing within the jurisdictional boundaries of the applicable board. At least one member of each board must be admitted to practice law in this state and at least one member must have been a city or county elected official. Each board shall be appointed by the governor and not more than two members at the time of appointment or during their term shall be members of the same political party. No more than two members at the time of appointment or during their term shall reside in the same county.

(2) Each member of a board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. The terms of the first three members of a board shall be staggered so that one member is appointed to serve until July 1, 1994, one member until July 1, 1996, and one member until July 1, 1998. [1991 1st sp.s. c 32 § 6.]

### **36.70A.270 Growth planning hearings boards—**

**Conduct, procedure, and compensation.** Each growth planning hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board may also appoint as its authorized agents one or more hearing examiners to assist the board in the performance of its hearing function pursuant to the authority contained in the administrative procedure act, chapter 34.05 RCW. The findings of the hearing examiner shall not become final until they have been formally approved by the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(6) All proceedings before the board or any of its members shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and arrange for the reasonable distribution of the rules. The administrative procedure act, chapter 34.05 RCW, shall govern the administrative rules of practice and procedure adopted by the boards.

(7) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter. [1991 1st sp.s. c 32 § 7.]

**36.70A.280 Matters subject to board review.** (1) A growth planning hearings board shall hear and determine only those petitions alleging either: (a) That a state agency, county, or city is not in compliance with the requirements of this chapter, or chapter 43.21C RCW as it relates to plans, regulations, and amendments thereto, adopted under RCW 36.70A.040; or (b) that the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by the state, a county or city that plans under this chapter, a person who has either appeared before the county or city regarding the

matter on which a review is being requested or is certified by the governor within sixty days of filing the request with the board, or a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes. [1991 1st sp.s. c 32 § 9.]

**36.70A.290 Petitions to growth planning hearings boards—Evidence.** (1) All requests for review to a growth planning hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter must be filed within sixty days after publication by the legislative bodies of the county or city. The date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published. Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto. The date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive

plan or the same development regulation or regulations. [1991 1st sp.s. c 32 § 10.]

**36.70A.300 Final orders.** (1) The board shall issue a final order within one hundred eighty days of receipt of the petition for review, or, when multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated. Such a final order shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, or chapter 43.21C RCW as it relates to plans, regulations, and amendments thereto, adopted under RCW 36.70A.040. In the final order, the board shall either: (a) Find that the state agency, county, or city is in compliance with the requirements of this chapter; or (b) find that the state agency, county, or city is not in compliance with the requirements of this chapter, in which case the board shall remand the matter to the affected state agency, county, or city and specify a reasonable time not in excess of one hundred eighty days within which the state agency, county, or city shall comply with the requirements of this chapter.

(2) Any party aggrieved by a final decision of the hearings board may appeal the decision to Thurston county superior court within thirty days of the final order of the board. [1991 1st sp.s. c 32 § 11.]

**36.70A.310 Limitations on appeal by the state.** A request for review by the state to a growth planning hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county-wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county-wide planning policies, that are not in compliance with the requirements of this chapter. [1991 1st sp.s. c 32 § 12.]

**36.70A.320 Presumption of validity—Burden of proof—Plans and regulations.** Comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption. In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it finds by a preponderance of the evidence that the state agency, county, or city erroneously interpreted or applied this chapter. [1991 1st sp.s. c 32 § 13.]

**36.70A.330 Noncompliance.** (1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(1)(b) has expired, the board, on

its own motion or motion of the petitioner, shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board.

(3) If the board finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed. [1991 1st sp.s. c 32 § 14.]

**36.70A.340 Noncompliance and sanctions.** Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter 82.36 RCW; the transportation improvement account, as provided in RCW 47.26.084; the urban arterial trust account, as provided in RCW 47.26.080; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which shall temporarily rescind the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance. [1991 1st sp.s. c 32 § 26.]

**36.70A.350 New fully contained communities.** A county required or choosing to plan under RCW 36.70A.040 may establish a process as part of its urban growth areas, that are designated under RCW 36.70A.110, for reviewing proposals to authorize new fully contained communities located outside of the initially designated urban growth areas.

(1) A new fully contained community may be approved in a county planning under this chapter if criteria including but not limited to the following are met:

(a) New infrastructure is provided for and impact fees are established consistent with the requirements of RCW 82.02.050;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the new fully contained communities and adjacent urban development;

(d) A mix of uses is provided to offer jobs, housing, and services to the residents of the new community;

(e) Affordable housing is provided within the new community for a broad range of income levels;

(f) Environmental protection has been addressed and provided for;

(g) Development regulations are established to ensure urban growth will not occur in adjacent nonurban areas;

(h) Provision is made to mitigate impacts on designated agricultural lands, forest lands, and mineral resource lands;

(i) The plan for the new fully contained community is consistent with the development regulations established for the protection of critical areas by the county pursuant to RCW 36.70A.170.

(2) New fully contained communities may be approved outside established urban growth areas only if a county reserves a portion of the twenty-year population projection and offsets the urban growth area accordingly for allocation to new fully contained communities that meet the requirements of this chapter. Any county electing to establish a new community reserve shall do so no more often than once every five years as a part of the designation or review of urban growth areas required by this chapter. The new community reserve shall be allocated on a project-by-project basis, only after specific project approval procedures have been adopted pursuant to this chapter as a development regulation. When a new community reserve is established, urban growth areas designated pursuant to this chapter shall accommodate the unreserved portion of the twenty-year population projection.

Final approval of an application for a new fully contained community shall be considered an adopted amendment to the comprehensive plan prepared pursuant to RCW 36.70A.070 designating the new fully contained community as an urban growth area. [1991 1st sp.s. c 32 § 16.]

**36.70A.360 Master planned resorts.** Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

A master planned resort may be authorized by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the development of master planned resorts;

(2) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned

resort, except in areas otherwise designated for urban growth under RCW 36.70A.110;

(3) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(4) The county ensures that the resort plan is consistent with the development regulations established for critical areas; and

(5) On-site and off-site infrastructure impacts are fully considered and mitigated. [1991 1st sp.s. c 32 § 17.]

**36.70A.370 Protection of private property.** (1) The state attorney general shall establish by October 1, 1991, an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. It is not the purpose of this section to expand or reduce the scope of private property protections provided in the state and federal Constitutions. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in case law.

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

(3) The attorney general, in consultation with the Washington state bar association, shall develop a continuing education course to implement this section.

(4) The process used by government agencies shall be protected by attorney client privilege. Nothing in this section grants a private party the right to seek judicial relief requiring compliance with the provisions of this section. [1991 1st sp.s. c 32 § 18.]

**36.70A.380 Extension of designation date.** The department may extend the date by which a county or city is required to designate agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170, or the date by which a county or city is required to protect such lands and critical areas under RCW 36.70A.060, if the county or city demonstrates that it is proceeding in an orderly fashion, and is making a good faith effort, to meet these requirements. An extension may be for up to an additional one hundred eighty days. The length of an extension shall be based on the difficulty of the effort to conform with these requirements. [1991 1st sp.s. c 32 § 39.]

**36.70A.385 Environmental planning pilot projects.** (1) The legislature intends to determine whether the environmental review process mandated under chapter 43.21C RCW may be enhanced and simplified, and

coordination improved, when applied to comprehensive plans mandated by this chapter. The department of community development shall undertake pilot projects on environmental review to determine if the review process can be improved by fostering more coordination and eliminating duplicative environmental analysis which is made to assist decision makers approving comprehensive plans pursuant to this chapter. Such pilot projects should be designed and scoped to consider cumulative impacts resulting from plan decisions, plan impacts on environmental quality, impacts on adjacent jurisdictions, and similar factors in sufficient depth to simplify the analysis of subsequent specific projects being carried out pursuant to the approved plan.

(2) The legislature hereby authorizes the department of community development to establish, in cooperation with business, industry, cities, counties, and other interested parties, at least two but not more than four pilot projects, one of which shall be with a county, on enhanced draft and final nonproject environmental analysis of comprehensive plans prepared pursuant to this chapter, for the purposes outlined in subsection (1) of this section. The department of community development may select appropriate geographic subareas within a comprehensive plan if that will best serve the purposes of this section and meet the requirements of chapter 43.21C RCW.

(3) An enhanced draft and final nonproject environmental analysis prepared pursuant to this section shall follow the rules adopted pursuant to chapter 43.21C RCW.

(4) Not later than December 31, 1993, the department of community development shall evaluate the overall effectiveness of the pilot projects under this section regarding preparing enhanced nonproject environmental analysis for the approval process of comprehensive plans and shall:

(a) Provide an interim report of its findings to the legislature with such recommendations as may be appropriate, including the need, if any, for further legislation;

(b) Consider adoption of any further rules or guidelines as may be appropriate to assist counties and cities in meeting requirements of chapter 43.21C RCW when considering comprehensive plans; and

(c) Prepare and circulate to counties and cities such instructional manuals or other information derived from the pilot projects as will assist all counties and cities in meeting the requirements and objectives of chapter 43.21C RCW in the most expeditious and efficient manner in the process of considering comprehensive plans pursuant to this chapter.

(5) The department of community development shall submit a final report to the legislature no later than December 31, 1995. [1991 1st sp.s. c 32 § 20.]

**36.70A.800 Role of growth strategies commission.** The growth strategies commission created by executive order shall:

(1) Analyze different methods for assuring that county and city comprehensive plans adopted under

chapter 36.70A RCW are consistent with the planning goals under RCW 36.70A.020 and with other requirements of chapter 36.70A RCW;

(2) Recommend to the legislature and the governor by October 1, 1990, a specific structure or process that, among other things:

(a) Ensures county and city comprehensive plans adopted under chapter 36.70A RCW are coordinated and comply with planning goals and other requirements under chapter 36.70A RCW;

(b) Requires state agencies to comply with this chapter and to consider and be consistent with county and city comprehensive plans in actions by state agencies, including the location, financing, and expansion of transportation systems and other public facilities;

(c) Defines the state role in growth management;

(d) Addresses lands and resources of state-wide significance, including to:

(i) Protect these lands and resources of state-wide significance by developing standards for their preservation and protection and suggesting the appropriate structure to monitor and enforce the preservation of these lands and resources; and

(ii) Consider the environmental, economic, and social values of the lands and resources with state-wide significance;

(e) Identifies potential state funds that may be withheld and incentives that promote county and city compliance with chapter 36.70A RCW;

(f) Increases affordable housing state-wide and promotes linkages between land use and transportation;

(g) Addresses vesting of rights; and

(h) Addresses short subdivisions; and

(3) Develop recommendations to provide for the resolution of disputes over urban growth areas between counties and cities, including incorporations and annexations. [1990 1st ex.s. c 17 § 86.]

**36.70A.900 Severability—1990 1st ex.s. c 17.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 1st ex.s. c 17 § 88.]

**36.70A.901 Part, section headings not law—1990 1st ex.s. c 17.** Part and section headings as used in this act do not constitute any part of the law. [1990 1st ex.s. c 17 § 89.]

**36.70A.902 Section headings not law—1991 1st sp.s. c 32.** Section headings as used in this act do not constitute any part of the law. [1991 1st sp.s. c 32 § 40.]

### Chapter 36.77

#### ROADS AND BRIDGES—CONSTRUCTION

Sections

36.77.075 County roads—Small works roster.

**36.77.075 County roads—Small works roster.** In lieu of the procedure for awarding contracts that is provided in RCW 36.77.020 through 36.77.040, a county may award contracts for public works projects on county roads with an estimated value of one hundred thousand dollars or less using a small works roster process as provided in RCW 39.04.155. [1991 c 363 § 81.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.78

#### ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.020 Definitions—"Standards of good practice."  
 36.78.040 Composition of board—Qualifications of members.  
 36.78.060 Executive director.  
 36.78.070 Duties of board.  
 36.78.110 Expenses to be paid from motor vehicle fund—Disbursement procedure.

**36.78.020 Definitions—"Standards of good practice."** "Standards of good practice" shall mean general and uniform practices formulated and adopted by the board relating to the administration of county roads which shall apply to engineering, maintenance, traffic control, safety, planning, programming, road classification, road inventories, budgeting and accounting procedures, equipment policies, and personnel policies. [1991 c 363 § 82; 1965 ex.s. c 120 § 2.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.78.040 Composition of board—Qualifications of members.** Six members of the county road administration board shall be county legislative authority members and three members shall be county engineers. If any member, during the term for which he or she is appointed ceases to be either a member of a county legislative authority or a county engineer, as the case may be, his or her membership on the county road administration board is likewise terminated. Three members of the board shall be from counties with a population of one hundred twenty-five thousand or more. Four members shall be from counties with a population of from twelve thousand to less than one hundred twenty-five thousand. Two members shall be from counties with a population of less than twelve thousand. Not more than one member of the board shall be from any one county. [1991 c 363 § 83; 1965 ex.s. c 120 § 4.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.78.060 Executive director.** The county road administration board shall appoint an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the county

road administration board. The executive director's salary shall be set by the board. [1990 c 266 § 1; 1965 ex.s. c 120 § 6.]

**36.78.070 Duties of board.** The county road administration board shall:

(1) Establish by rule, standards of good practice for county road administration;

(2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;

(3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;

(4) Report annually on the first day of July to the state department of transportation and to the chairs of the legislative transportation committee and the house and senate transportation committees on the status of county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;

(5) Administer the rural arterial program established by chapter 36.79 RCW as well as any other programs provided for in law. [1990 c 266 § 2; 1987 c 505 § 19; 1983 1st ex.s. c 49 § 19; 1977 ex.s. c 235 § 4; 1965 ex.s. c 120 § 7.]

**Severability—Effective date—**1983 1st ex.s. c 49: See RCW 36.79.900, 36.79.901.

**36.78.110 Expenses to be paid from motor vehicle fund—Disbursement procedure.** All expenses incurred by the board including salaries of employees shall be paid upon voucher forms provided by the office of financial management or pursuant to a regular payroll signed by the chairman and the executive director of the board. All expenses of the board shall be paid out of that portion of the motor vehicle fund allocated to the counties and withheld for use by the department of transportation and the county road administration board under the provisions of RCW 46.68.120(1), as now or hereafter amended. [1990 c 266 § 3; 1979 c 151 § 42; 1965 ex.s. c 120 § 11.]

## Chapter 36.79

### ROADS AND BRIDGES—RURAL ARTERIAL PROGRAM

#### Sections

- 36.79.140 Expenditures from rural arterial trust account—Approval by board.  
36.79.150 Allocation of funds to rural arterial projects—Subsequent application for increased allocation—Withholding of funds for noncompliance.

**36.79.140 Expenditures from rural arterial trust account—Approval by board.** At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by

RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account: **PROVIDED HOWEVER,** That counties with a population of from five thousand to less than eight thousand are exempt from this eligibility restriction: **AND PROVIDED FURTHER,** That counties expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050 are also exempt from this eligibility restriction. The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 36.79.080. [1991 c 363 § 84; 1990 c 42 § 104; 1984 c 113 § 1; 1983 1st ex.s. c 49 § 14.]

**Purpose—Captions not law—**1991 c 363: See notes following RCW 2.32.180.

**Purpose—Headings—Severability—Effective dates—Application—Implementation—**1990 c 42: See notes following RCW 82.36.025.

**36.79.150 Allocation of funds to rural arterial projects—Subsequent application for increased allocation—Withholding of funds for noncompliance.** (1) Whenever the board approves a rural arterial project it shall determine the amount of rural arterial trust account funds to be allocated for such project. The allocation shall be based upon information contained in the six-year plan submitted by the county seeking approval of the project and upon such further investigation as the board deems necessary. The board shall adopt reasonable rules pursuant to which rural arterial trust account funds allocated to a project may be increased upon a subsequent application of the county constructing the project. The rules adopted by the board shall take into

account, but shall not be limited to, the following factors: (a) The financial effect of increasing the original allocation for the project upon other rural arterial projects either approved or requested; (b) whether the project for which an additional allocation is requested can be reduced in scope while retaining a usable segment; (c) whether the original cost of the project shown in the applicant's six-year program was based upon reasonable engineering estimates; and (d) whether the requested additional allocation is to pay for an expansion in the scope of work originally approved.

(2) The board shall not allocate funds, nor make payments under RCW 36.79.160, to any county or city identified by the governor under RCW 36.70A.340. [1991 1st sp.s. c 32 § 31; 1983 1st ex.s. c 49 § 15.]

**Section headings not law—1991 1st sp.s. c 32:** See RCW 36.70A.902.

### Chapter 36.80

#### ROADS AND BRIDGES—ENGINEER

##### Sections

36.80.010 Employment of road engineer.

**36.80.010 Employment of road engineer.** The county legislative authority of each county with a population of eight thousand or more shall employ a full-time county road engineer residing in the county. The county legislative authority of each other county shall employ a county engineer on either a full-time or part-time basis who need not be a resident of the county, or may contract with another county for the engineering services of a county road engineer from such other county. [1991 c 363 § 85; 1984 c 11 § 1; 1980 c 93 § 1; 1969 ex.s. c 182 § 6; 1963 c 4 § 36.80.010. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 36.81

#### ROADS AND BRIDGES—ESTABLISHMENT

##### Sections

36.81.121 Perpetual advanced plans for coordinated road program—Six-year program for arterial road construction, ferries, docks, etc.—Expenditures for bicycles, pedestrians, and equestrian purposes.

36.81.130 Procedure specified for establishment, construction, and maintenance.

**36.81.121 Perpetual advanced plans for coordinated road program—Six-year program for arterial road construction, ferries, docks, etc.—Expenditures for bicycles, pedestrians, and equestrian purposes.** (1) Before July 1st of each year, the legislative authority of each county with the advice and assistance of the county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road program for the ensuing six calendar years. If the county has adopted a comprehensive plan pursuant to chapter

35.63 or 36.70 RCW, the inherent authority of a charter county derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall include proposed road and bridge construction work, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated road construction program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) The six-year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six-year program for arterial road construction based upon its long-range construction plan and formulated in accordance with regulations of the transportation improvement board. The six-year program for arterial road construction shall be submitted to the transportation improvement board forthwith after its annual revision and adoption by the legislative authority of each county. The six-year program for arterial road construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority of each county may request for urban arterials from the urban arterial trust account or the transportation improvement account for the six-year period. The arterial road construction program shall provide for a more rapid rate of completion of the long-range construction needs of principal arterial roads than for minor and collector arterial roads, pursuant to regulations of the transportation improvement board.

(3) Each six-year program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycles, pedestrians, and equestrian purposes. [1990 1st ex.s. c 17 § 58; 1988 c 167 § 8; 1983 1st ex.s. c 49 § 20. Prior: 1975 1st ex.s. c 215 § 2; 1975 1st ex.s. c 21 § 3; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121; prior: 1961 c 195 § 1.]

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**Savings—Severability—1988 c 167:** See notes following RCW 47.26.121.

**Severability—Effective date—1983 1st ex.s. c 49:** See RCW 36.79.900, 36.79.901.

**Severability—Effective dates—1967 ex.s. c 83:** See RCW 47.26.900 and 47.26.910.

*Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.*

*Joint planning of urban arterial development: RCW 47.26.230.*

*Long range arterial construction plans, counties and cities to prepare: RCW 47.26.170.*

Priority projects to be selected in preparation of six-year program: RCW 47.26.220.

**36.81.130 Procedure specified for establishment, construction, and maintenance.** The laying out, construction, and maintenance of all county roads shall hereafter be in accordance with the following procedure:

On or before the first Monday in October of each year each county road engineer shall file with the county legislative authority a recommended plan for the laying out, construction, maintenance, and special maintenance of county roads for the ensuing fiscal year. Such recommended plan need not be limited to but shall include the following items: Recommended projects, including capital expenditures for ferries, docks, and related facilities, and their priority; the estimated cost of all work, including labor and materials for each project recommended; a statement as to whether such work is to be done by the county forces or by publicly advertised contract; a list of all recommended repairs to and purchases of road equipment, together with the estimated costs thereof. Amounts to be expended for maintenance and special maintenance shall be recommended, but details of these proposed expenditures shall not be made. The recommended plan shall conform as nearly as practicable to the county's long range road program.

After filing of the road engineer's recommended plan, the county legislative authority shall consider the same. Revisions and changes may be made until a plan which is agreeable to a majority of the members of the county legislative authority has been adopted: PROVIDED, That such revisions shall conform as nearly as practicable to the county's long range road program. Any appropriations contained in the county road budget shall be void unless the county's road plan was adopted prior to such appropriation.

The final road plan for the fiscal year shall not thereafter be changed except by unanimous vote of the county legislative authority. [1991 c 363 § 86; 1975 1st ex.s. c 21 § 4; 1963 c 4 § 36.81.130. Prior: 1949 c 156 § 7; Rem. Supp. 1949 § 6450-8f.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**Chapter 36.82**

**ROADS AND BRIDGES—FUNDS—BUDGET**

Sections

36.82.020	County road fund—Limitation upon expenditures.
36.82.030	Repealed.
36.82.130	Repealed.
36.82.150	Repealed.
36.82.160	County road budget—Road budget to be prepared—Estimates of expenditures.

**36.82.020 County road fund—Limitation upon expenditures.** Any funds accruing to and to be deposited in the county road fund arising from any levy in any road district shall be expended for proper county road purposes. [1991 c 363 § 87; 1963 c 4 § 36.82.020. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.82.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.82.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.82.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**36.82.160 County road budget—Road budget to be prepared—Estimates of expenditures.** Each county legislative authority, with the assistance of the county road engineer, shall prepare and file with the county auditor on or before the second Monday in August in each year, detailed and itemized estimates of all expenditures required in the county for the ensuing fiscal year. In the preparation and adoption of the county road budget the legislative authority shall determine and budget sums to become available for the following county road purposes: (1) Administration; (2) bond and warrant retirement; (3) maintenance; (4) construction; (5) operation of equipment rental and revolving fund; and (6) such other items relating to the county road budget as may be required by the county road administration board; and the respective amounts as adopted for these several items in the final budget for the ensuing calendar year shall not be altered or exceeded except as by law provided. [1991 c 363 § 88; 1969 ex.s. c 182 § 14; 1963 c 4 § 36.82.160. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**Chapter 36.87**

**ROADS AND BRIDGES—VACATION**

Sections

36.87.020	County road frontage owners' petition—Bond, cash deposit, or fee.
-----------	---

**36.87.020 County road frontage owners' petition—Bond, cash deposit, or fee.** Owners of the majority of the frontage on any county road or portion thereof may petition the county legislative authority to vacate and abandon the same or any portion thereof. The petition must show the land owned by each petitioner and set forth that such county road is useless as part of the county road system and that the public will be benefited by its vacation and abandonment. The legislative authority may (1) require the petitioners to make an appropriate cash deposit or furnish an appropriate bond against which all costs and expenses incurred in the examination, report, and proceedings pertaining to the petition shall be charged; or (2) by ordinance or resolution

require the petitioners to pay a fee adequate to cover such costs and expenses. [1991 c 363 § 89; 1985 c 369 § 4; 1963 c 4 § 36.87.020. Prior: 1937 c 187 § 49, part; RRS § 6450-49, part.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

### Chapter 36.88

#### COUNTY ROAD IMPROVEMENT DISTRICTS

##### Sections

- 36.88.235 Improvement bonds—Guaranty fund assets may be transferred to county general fund—When.  
36.88.305 District costs and expenses—Credit or reduction of assessments.

**36.88.235 Improvement bonds—Guaranty fund assets may be transferred to county general fund—When.** (1) Any county maintaining a local improvement guaranty fund under this chapter, upon certification by the county treasurer that the local improvement guaranty fund has sufficient funds currently on hand to meet all valid outstanding obligations of the fund and all other obligations of the fund reasonably expected to be incurred in the near future, may by ordinance transfer assets from such fund to its general fund. The net cash of the local improvement guaranty fund may be reduced by such transfer to an amount not less than five percent of the net outstanding obligations guaranteed by such fund.

(2) If, at any time within five years of any transfer of assets from the local improvement guaranty fund to the general fund of the county, the net cash of the local improvement guaranty fund is reduced below the minimum amount specified in subsection (1) of this section, the county shall, to the extent of the amount transferred, pay valid claims against the local improvement guaranty fund as a general obligation of the county. In addition, such county shall pay all reasonable costs of collection necessarily incurred by the holders of valid claims against the local improvement guaranty fund. [1991 c 245 § 12.]

**36.88.305 District costs and expenses—Credit or reduction of assessments.** At its option, a county may include the value of right of way or property that is donated or given to the county for purposes of an improvement to be financed by a road improvement district, together with the costs of acquiring other rights of way or property for the improvement that was not donated or given to the county, in the costs of the improvement and credit or reduce the assessments imposed on benefited property for the value of the right of way or property that the owner of the benefited property donated or gave to the county for the improvement. [1991 c 363 § 90.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

### Chapter 36.89

#### HIGHWAYS—OPEN SPACES—PARKS—RECREATION, COMMUNITY, HEALTH AND SAFETY FACILITIES—STORM WATER CONTROL

##### Sections

- 36.89.090 Storm water control facilities—Lien for delinquent charges.

**36.89.090 Storm water control facilities—Lien for delinquent charges.** The county shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for storm water control facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290: PROVIDED, That a county may, by resolution or ordinance, adopt all or any part of the alternative interest rate, lien, and foreclosure procedures as set forth in RCW 36.89-.092 through 36.89.094 or by RCW 36.94.150. [1991 c 36 § 1; 1987 c 241 § 1; 1970 ex.s. c 30 § 8.]

### Chapter 36.93

#### LOCAL GOVERNMENTAL ORGANIZATION—BOUNDARIES—REVIEW BOARDS

##### Sections

- 36.93.030 Creation of boundary review boards in counties with populations of two hundred ten thousand or more—Creation in other counties.  
36.93.040 Dates upon which boards in counties with populations of less than two hundred ten thousand deemed established.  
36.93.051 Appointment of board—Members—Terms—Qualifications.  
36.93.061 Boards in counties with populations of less than one million—Members—Terms—Qualifications.  
36.93.063 Selection of board members—Procedure—Commencement of term—Vacancies.  
36.93.100 Review of proposed actions by board—Procedure.  
36.93.140 Pending actions not affected.  
36.93.150 Review of proposed actions—Actions and determinations of board—Disapproval, effect.  
36.93.152 Disapproval of certain incorporations deemed to be recommendation against—Ballot proposition required.  
36.93.230 Power to disband boundary review board.  
36.93.920 Repealed.

**36.93.030 Creation of boundary review boards in counties with populations of two hundred ten thousand or more—Creation in other counties.** (1) There is hereby created and established in each county with a population of two hundred ten thousand or more a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other county in the following manner:

(a) The county legislative authority may, by majority vote, adopt a resolution establishing a boundary review board; or

(b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his or her name from a petition after it has been filed with the auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the county legislative authority, together with his or her certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the county legislative authority shall submit the question of whether a boundary review board should be established to the electorate at the next county primary or county general election which occurs more than forty-five days from the date of receipt of the petition. Notice of the election shall be given as provided in RCW 29.27.080 and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established. [1991 c 363 § 91; 1969 ex.s. c 111 § 1; 1967 c 189 § 3.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.93.040 Dates upon which boards in counties with populations of less than two hundred ten thousand deemed established.** For the purposes of this chapter, each county with a population of less than two hundred ten thousand shall be deemed to have established a boundary review board on and after the date a proposition for establishing the same has been approved at an election as provided for in RCW 36.93.030, or on and after the date of adoption of a resolution of the county legislative authority establishing the same as provided for in RCW 36.93.030. [1991 c 363 § 92; 1967 c 189 § 4.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.93.051 Appointment of board—Members—Terms—Qualifications.** The boundary review board in each county with a population of one million or more shall consist of eleven members chosen as follows:

- (1) Three persons shall be appointed by the governor;
- (2) Three persons shall be appointed by the county appointing authority;
- (3) Three persons shall be appointed by the mayors of the cities and towns located within the county; and
- (4) Two persons shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and two initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and two initial appointees to

serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The county appointing authority shall designate one of its initial appointees to serve a term of two years, and two of its initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one of its initial appointees to serve a term of one year, and two of its initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The mayors making the initial city and town appointments shall designate two of their initial appointees to serve terms of two years, and one of their initial appointees to serve a term of four years, if the appointments are made in an odd-numbered year, or two of their initial appointees to serve terms of one year, and one of their initial appointees to serve a term of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The board shall make two initial appointments from the nominees of special districts, with one appointee serving a term of four years and one initial appointee serving a term of two years, if the appointments are made in an odd-numbered year, or one initial appointee serving a term of three years and one initial appointee serving a term of one year if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular retained basis of the county, any governmental unit in the county, or any agency or association thereof. [1991 c 363 § 93; 1989 c 84 § 17.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.93.061 Boards in counties with populations of less than one million—Members—Terms—Qualifications.** The boundary review board in each county with a population of less than one million shall consist of five members chosen as follows:

- (1) Two persons shall be appointed by the governor;
- (2) One person shall be appointed by the county appointing authority;
- (3) One person shall be appointed by the mayors of the cities and towns located within the county; and
- (4) One person shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and one initial appointee to serve a term of four years, if the appointments are made

in an odd-numbered year, or one initial appointee to serve a term of one year, and one initial appointee to serve a term of three years, if the appointments are made in an even-numbered year, with the length of a term being calculated from the first day of February in the year that the appointment was made.

The initial appointee of the county appointing authority shall serve a term of two years, if the appointment is made in an odd-numbered year, or a term of one year, if the appointment is made in an even-numbered year. The initial appointee by the mayors shall serve a term of four years, if the appointment is made in an odd-numbered year, or a term of three years, if the appointment is made in an even-numbered year. The length of the term shall be calculated from the first day in February in the year the appointment was made.

The board shall make one initial appointment from the nominees of special districts to serve a term of two years if the appointment is made in an odd-numbered year, or a term of one year if the appointment is made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular retained basis of the county, any governmental unit in the county, or any agency or association thereof. [1991 c 363 § 94; 1989 c 84 § 18.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.93.063 Selection of board members—Procedure—Commencement of term—Vacancies.** The executive of the county shall make the appointments under RCW 36.93.051 and 36.93.061 for the county, if one exists, or otherwise the county legislative authority shall make the appointments for the county.

The mayors of all cities and towns in the county shall meet on or before the last day of January in each odd-numbered year to make such appointments for terms to commence on the first day of February in that year. The date of the meeting shall be called by the mayor of the largest city or town in the county, and the mayor of the largest city or town in the county who attends the meeting shall preside over the meeting. Selection of each appointee shall be by simple majority vote of those mayors who attend the meeting.

Any special district in the county may nominate a person to be appointed to the board on or before the last day of January in each odd-numbered year that the term for this position expires. The board shall make its appointment of a nominee or nominees from the special districts during the month of February following the date by which such nominations are required to be made.

The county appointing authority and the mayors of cities and towns within the county shall make their initial appointments for newly created boards within sixty

days of the creation of the board or shall make sufficient additional appointments to increase a five-member board to an eleven-member board within sixty days of the date the county obtains a population of one million or more. The board shall make its initial appointment or appointments of board members from the nominees of special districts located within the county within ninety days of the creation of the board or shall make an additional appointment of a board member from the nominees of special districts located within the county within ninety days of the date the county obtains a population of one million or more.

The term of office for all appointees other than the appointee from the special districts shall commence on the first day of February in the year in which the term is to commence. The term of office for the appointee from nominees of special districts shall commence on the first day of March in the year in which the term is to commence.

Vacancies on the board shall be filled by appointment of a person to serve the remainder of the term in the same manner that the person whose position is vacant was filled. [1991 c 363 § 95; 1989 c 84 § 19.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.93.100 Review of proposed actions by board—Procedure.** The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within forty-five days of the filing of a notice of intention:

(1) Three members of a five-member boundary review board or five members of a boundary review board in a county with a population of one million or more files a request for review: PROVIDED, That the members of the boundary review board shall not be authorized to file a request for review of the following actions:

(a) The incorporation or change in the boundary of any city, town, or special purpose district;

(b) The extension of permanent water service outside of its existing corporate boundaries by a city, town, or special purpose district where such extension is through the installation of water mains of six inches or less in diameter; or

(c) The extension of permanent sewer service outside of its existing corporate boundaries by a city, town, or special purpose district where such extension is through the installation of sewer mains of eight inches or less in diameter;

(2) Any governmental unit affected, including the governmental unit for which the boundary change or extension of permanent water or sewer service is proposed, or the county within which the area of the proposed action is located, files a request for review of the specific action;

(3) A petition requesting review is filed and is signed by:

(a) Five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review

board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) An owner or owners of property consisting of five percent of the assessed valuation within such area;

(4) The majority of the members of boundary review boards concur with a request for review when a petition requesting the review is filed by five percent of the registered voters who deem themselves affected by the action and reside within one-quarter mile of the proposed action but not within the jurisdiction proposing the action.

If a period of forty-five days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved.

If a review of a proposal is requested, the board shall make a finding as prescribed in RCW 36.93.150 within one hundred twenty days after the filing of such a request for review. If this period of one hundred twenty days shall elapse without the board making a finding as prescribed in RCW 36.93.150, the proposal shall be deemed approved unless the board and the person who submitted the proposal agree to an extension of the one hundred twenty day period. [1991 c 363 § 96; 1989 c 84 § 3; 1987 c 477 § 3; 1983 c 76 § 1; 1982 c 220 § 1; 1967 c 189 § 10.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Severability**—1982 c 220: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 220 § 9.]

**36.93.140 Pending actions not affected.** Actions described in RCW 36.93.090 which are pending July 1, 1967, or actions in counties with populations of less than two hundred ten thousand which are pending on the date of the creation of a boundary review board therein, shall not be affected by the provisions of this chapter. Actions shall be deemed pending on and after the filing of sufficient petitions initiating the same with the appropriate public officer, or the performance of an official act initiating the same. [1991 c 363 § 97; 1967 c 189 § 14.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**36.93.150 Review of proposed actions—Actions and determinations of board—Disapproval, effect.** The board, upon review of any proposed action, shall take such of the following actions as it deems necessary to best carry out the intent of this chapter:

- (1) Approval of the proposal as submitted;
- (2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to add or delete territory: PROVIDED, That any proposal for annexation by the board shall be subject to RCW 35.21.010 and shall not add additional territory, the amount of which is greater than that included in the original proposal: PROVIDED FURTHER, That such modifications shall not interfere with the authority of a city, town, or special purpose district to require or not require preannexation

agreements, covenants, or petitions: AND PROVIDED FURTHER, That a board shall not modify the proposed incorporation of a city with an estimated population of seven thousand five hundred or more by removing territory from the proposal, or adding territory to the proposal, that constitutes ten percent or more of the total area included within the proposal before the board, but shall not reduce the territory in such a manner as to reduce the population below seven thousand five hundred;

(3) Determination of a division of assets and liabilities between two or more governmental units where relevant;

(4) Determination whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district; or

(5) Disapproval of the proposal except that the board shall not have jurisdiction: (a) To disapprove the dissolution or disincorporation of a special purpose district which is not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district; (b) over the division of assets and liabilities of a special purpose district that is dissolved or disincorporated pursuant to chapter 36.96 RCW; nor (c) to disapprove the incorporation of a city with an estimated population of seven thousand five hundred or more, but the board may recommend against the proposed incorporation of a city with such an estimated population.

Unless the board shall disapprove a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal, other than that for a city, town, or special purpose district annexation, after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

The addition or deletion of property by the board shall not invalidate a petition which had previously satisfied the sufficiency of signature provisions of RCW 35.13.130 or 35A.14.120. When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration.

The board shall not modify or deny a proposed action unless there is evidence on the record to support a conclusion that the action is inconsistent with one or more of the objectives under RCW 36.93.180. Every such determination to modify or deny a proposed action shall be

made in writing pursuant to a motion, and shall be supported by appropriate written findings and conclusions, based on the record. [1990 c 273 § 1; 1987 c 477 § 7; 1979 ex.s. c 5 § 13; 1975 1st ex.s. c 220 § 10; 1969 ex.s. c 111 § 8; 1967 c 189 § 15.]

**Severability**—1990 c 273: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 273 § 3.]

**Severability**—1979 ex.s. c 5: See RCW 36.96.920.

**Legislative finding, intent**—1975 1st ex.s. c 220: See note following RCW 35.02.170.

**36.93.152 Disapproval of certain incorporations deemed to be recommendation against—Ballot proposition required.** The action of a boundary review board to disapprove the proposed incorporation of a city with a population of seven thousand five hundred or more, that had the notice of proposed action under RCW 36.93.090 filed with the boundary review board after July 1, 1989, shall be deemed to be a recommendation against the proposed incorporation, and a ballot proposition to authorize the incorporation shall be submitted to voters at the next November general election date specified under RCW 29.13.020 occurring after March 29, 1990. [1990 c 273 § 2.]

**Severability**—1990 c 273: See note following RCW 36.93.150.

**36.93.230 Power to disband boundary review board.** When a county and the cities and towns within the county have adopted a comprehensive plan and consistent development regulations pursuant to the provisions of chapter 36.70A RCW, the county may, at the discretion of the county legislative authority, disband the boundary review board in that county. [1991 1st sp.s. c 32 § 22.]

**Section headings not law**—1991 1st sp.s. c 32: See RCW 36.70A.902.

**36.93.920 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 36.94

### SEWERAGE, WATER AND DRAINAGE SYSTEMS

#### Sections

36.94.040	Incorporation of provisions of comprehensive plan in general plan.
36.94.140	Authority of county to operate system—Rates and charges, fixing of—Factors to be considered.

**36.94.040 Incorporation of provisions of comprehensive plan in general plan.** The sewerage and/or water general plan must incorporate the provisions of existing comprehensive plans relating to sewerage and water systems of cities, towns, municipalities, and private utilities, to the extent they have been implemented. [1990 1st ex.s. c 17 § 33; 1967 c 72 § 4.]

**Severability**—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

**36.94.140 Authority of county to operate system—Rates and charges, fixing of—Factors to be considered.** Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate and control it and to fix, alter, regulate and control the rates and charges for the service to those to whom such county service is available, and to levy charges for connection to such system. The rates for availability of service and connection charges so charged must be uniform for the same class of customers or service.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the board may consider any or all of the following factors:

- (1) The difference in cost of service to the various customers within or without the area;
- (2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;
- (3) The different character of the service furnished various customers;
- (4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;
- (5) Capital contributions made to the system or systems, including, but not limited to, assessments;
- (6) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety; and
- (7) Any other matters which present a reasonable difference as a ground for distinction.

Such rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system. [1990 c 133 § 2; 1975 1st ex.s. c 188 § 2; 1967 c 72 § 14.]

**Findings**—1990 c 133: "The legislature finds the best interests of the citizens of the state are served if:

- (1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;
- (2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use regulation and public health and safety;
- (3) Public water systems in violation of health and safety standards adopted under RCW 43.20.050 remain in operation and continue providing water service providing that public health is not compromised, assuming a suitable replacement purveyor is found and deficiencies are corrected in an expeditious manner consistent with public health and safety; and
- (4) The state address[es], in a systematic and comprehensive fashion, new operating requirements which will be imposed on public water systems under the federal Safe Drinking Water Act." [1990 c 133 § 1.]

**Severability**—1990 c 133: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 133 § 12.]

**Severability**—1975 1st ex.s. c 188: See RCW 36.94.921.

## Chapter 36.95

## TELEVISION RECEPTION IMPROVEMENT DISTRICTS

## Sections

36.95.020 Boundaries—Territory excluded.

**36.95.020 Boundaries—Territory excluded.** A district's boundary may include any part or all of any county and may include any part or all of any incorporated area located within the county. A district's boundary may not include any territory already being served by a cable TV system (CATV) unless on August 9, 1971, there is a translator station retransmitting television signals to such territory. [1991 c 363 § 98; 1971 ex.s. c 155 § 2.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

## Chapter 36.96

## DISSOLUTION OF INACTIVE SPECIAL PURPOSE DISTRICTS

## Sections

36.96.800 Alternative dissolution procedure—Drainage and drainage improvement districts—Conditions.

**36.96.800 Alternative dissolution procedure—Drainage and drainage improvement districts—Conditions.** As an alternative to this chapter a drainage district or drainage improvement district located within the boundaries of a county storm drainage and surface water management utility, and which is not currently imposing assessments, may be dissolved by ordinance of the county legislative authority. If the alternative dissolution procedure in this section is used the following shall apply:

(1) The county storm drainage and surface water management utility shall assume responsibility for payment or settlement of outstanding debts of the dissolved drainage district or drainage improvement district.

(2) All assets, including money, funds, improvements, or property, real or personal, shall become assets of the county in which the dissolved drainage district or drainage improvement district was located.

(3) Notwithstanding RCW 85.38.220, the county storm drainage and surface water management utility may determine how to best manage, operate, maintain, improve, exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved drainage district or drainage improvement district. [1991 c 28 § 1.]

## Chapter 36.105

## COMMUNITY COUNCILS FOR UNINCORPORATED AREAS OF ISLAND COUNTIES

## Sections

36.105.010 Purpose.  
36.105.020 Definitions.

36.105.030 Minimum requirements.  
36.105.040 Creation.  
36.105.050 Election of initial community councilmembers.  
36.105.060 Community councilmembers—Election—Terms.  
36.105.070 Responsibility of county legislative authority.  
36.105.080 Powers.  
36.105.090 Annexation.  
36.105.100 Dissolution.

**36.105.010 Purpose.** Voters of the unincorporated areas of the state are authorized to establish community councils as provided in this chapter.

It is the purpose of this chapter to provide voters of unincorporated areas in counties with a population of over thirty thousand that are made up entirely of islands with direct input on the planning and zoning of their community by establishing a governmental mechanism to adopt proposed community comprehensive plans and proposed community zoning ordinances that are consistent with an overall guide and framework adopted by the county legislative authority. In addition, it is the purpose of this chapter to have community councils serve as forums for the discussion of local issues. [1991 c 363 § 99.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

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

(1) "Community" means a portion of the unincorporated area for which a community council has been established and which is located in a county with a population of over thirty thousand that is made up entirely of islands.

(2) "Community comprehensive plan" means a comprehensive plan adopted by a community council.

(3) "Community council" means the governing body established under this chapter to adopt community comprehensive plans and community zoning ordinances for a community.

(4) "Community zoning ordinances" means the zoning ordinances adopted by a community council to implement a community comprehensive plan. [1991 c 363 § 100.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**36.105.030 Minimum requirements.** A community for which a community council is created may include only unincorporated territory located in a single county with a population of over thirty thousand that is made up entirely of islands and not included within a city or town. A community council must have at least one thousand persons residing within the community when the community council is created or, where the community only includes an entire island, at least three hundred persons must reside on the island when the community council is created. Any portion of such a community that is annexed by a city or town, or is incorporated as a city or town, shall be removed from the community upon the effective date of the annexation or the official date of the incorporation. [1991 c 363 § 101.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.105.040 Creation.** (1) The process to create a community council shall be initiated by the filing of petitions with the county auditor of the county in which the community is located which: (a) Call for the creation of a community council; (b) set forth the boundaries for the community; (c) indicate the number of community councilmembers, which shall be five, seven, nine, or eleven; and (d) contain signatures of voters residing within the community equal in number to at least ten percent of the voters residing in the community who voted at the last state general election. The county auditor shall determine if the petitions contain a sufficient number of valid signatures and certify the sufficiency of the petitions within fifteen days of when the petitions were filed. If the petitions are certified as having sufficient valid signatures, the county auditor shall transmit the petitions and certificate to the county legislative authority.

(2) The county legislative authority shall hold a public hearing within the community on the creation of the proposed community council no later than sixty days after the petitions and certificate of sufficiency were transmitted to the county legislative authority. Notice of the public hearing shall be published in a newspaper of general circulation in the community for at least once a week for two consecutive weeks, with the last date of publication no more than ten days prior to the date of the public hearing. At least ten days before the public hearing, additional notice shall be posted conspicuously in at least five places within the proposed community in a manner designed to attract public attention.

(3) After receiving testimony on the creation of the proposed community council, the county legislative authority may alter the boundaries of the community, but the boundaries may not be altered to reduce the number of persons living within the community by more than ten percent or below the minimum number of residents who must reside within the community at the time of the creation of the community council. If territory is added to the community, another public hearing on the proposal shall be held.

(4) The county legislative authority shall call a special election within the community to determine whether the proposed community council shall be created, and to elect the initial community councilmembers, at the next state general election occurring seventy-five or more days after the initial public hearing on the creation of the proposed community council. The community council shall be created if the ballot proposition authorizing the creation of the community is approved by a simple majority vote of the voters voting on the proposition. [1991 c 363 § 102.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.105.050 Election of initial community councilmembers.** The initial members of the community

council shall be elected at the same election as the ballot proposition is submitted authorizing the creation of the community council. However, the election of the initial community councilmembers shall be null and void if the ballot proposition authorizing the creation of the community council is not approved.

No primary election shall be held to nominate candidates for initial council positions. The initial community council shall consist of the candidate for each council position who receives the greatest number of votes for that council position. Staggering of terms of office shall be accomplished by having the majority of the winning candidates who receive the greatest number of votes being elected to four-year terms of office, and the remaining winning candidates being elected to two-year terms of office, if the election was held in an even-numbered year, or the majority of the winning candidates who receive the greatest number of votes being elected to three-year terms of office, and the remaining winning candidates being elected to one-year terms of office, if the election was held in an odd-numbered year, with the term computed from the first day of January in the year following the election. Initial councilmembers shall take office immediately when qualified in accordance with RCW 29.01.135.

However, where the county operates under a charter providing for the election of members of the county legislative authority in odd-numbered years, the terms of office of the initial councilmembers shall be four years and two years, if the election of the initial councilmembers was held on an odd-numbered year, or three years and one year, if the election of the initial councilmembers was held on an even-numbered year. [1991 c 363 § 103.]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

**36.105.060 Community councilmembers—Election—Terms.** Community councilmembers shall be elected to staggered four-year terms until their successors are elected and qualified. Each council position shall be numbered separately. Candidates shall run for specific council positions. The number of council positions shall be five, seven, nine, or eleven, as specified in the petition calling for the creation of the community council.

Community councilmembers shall be nominated and elected at nonpartisan elections pursuant to general election laws, except the elections shall be held in even-numbered years, unless the county operates under a charter and members of the county legislative authority are elected in odd-numbered years, in which case, community councilmembers shall be elected in odd-numbered years.

The provisions of this section apply to the election and terms of office of the initial community councilmembers, except as provided in RCW 36.105.050.

A councilmember shall lose his or her council position if his or her primary residence no longer is located

within the community. Vacancies on a community council shall be filled by action of the remaining councilmembers. [1991 c 363 § 104.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

**36.105.070 Responsibility of county legislative authority.** (1) Within ninety days of the election at which a community council is created, the county legislative authority shall adopt an ordinance establishing policies and conditions and designating portions or components of the county comprehensive plan and zoning ordinances that serve as an overall guide and framework for the development of proposed community comprehensive plans and proposed community zoning ordinances. The conditions and policies shall conform with the requirements of chapter 36.70A RCW.

(2) Proposed community comprehensive plans and proposed community zoning ordinances that are adopted by a community council shall be submitted to the county legislative authority for its review of the consistency of the proposed plans and proposed ordinances with the ordinance adopted under subsection (1) of this section. The county legislative authority shall either approve the proposed plans and proposed ordinances as adopted, or refer the proposed plans and proposed ordinances back to the community council with written findings specifying the inconsistencies, within ninety days after they were submitted. The county comprehensive plan, or subarea plan and comprehensive plan, and zoning ordinances shall remain in effect in the community until the proposed community comprehensive plans and proposed community zoning ordinances have been approved as provided in this subsection.

(3) Each proposed amendment to approved community comprehensive plans or approved community zoning ordinances that is adopted by a community council shall be submitted to the county legislative authority for its review of the consistency of the amendment with the ordinance adopted under subsection (1) of this section. The county legislative authority shall either approve the proposed amendment as adopted or refer the proposed amendment back to the community council with written findings specifying the inconsistencies within ninety days after the proposed amendment was submitted. The unamended community comprehensive plans and unamended community zoning ordinances shall remain in effect in the community until the proposed amendment has been approved as provided in this subsection.

(4) If the county legislative authority amends the ordinance it adopted under subsection (1) of this section, a community council shall be given at least one hundred twenty days to amend its community comprehensive plans and community zoning ordinances to be consistent with this amended ordinance. However, the county legislative authority may amend the community comprehensive plans and community zoning ordinances to achieve consistency with this amended ordinance. Nothing in this subsection shall preclude a community council from subsequently obtaining approval of its proposed

community comprehensive plans and proposed community zoning ordinances.

(5) Approved community comprehensive plans and approved community zoning ordinances shall be enforced by the county as if they had been adopted by the county legislative authority. All quasi-judicial actions and permits relating to these plans and ordinances shall be made and decided by the county legislative authority or otherwise as provided by the county legislative authority.

(6) The county shall provide administrative and staff support for each community council within its boundaries. [1991 c 363 § 105.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

**36.105.080 Powers.** A community council shall adopt proposed community comprehensive plans and proposed community zoning ordinances as provided in RCW 36.105.070. Community councils shall not have the authority to take quasi-judicial actions nor to decide permit applications. In addition, a community council shall serve as a forum for the discussion of local issues.

Community councils are subject to chapter 42.30 RCW, the open public meetings act. [1991 c 363 § 106.]

~~Purpose~~—~~Captions not law~~—1991 c 363: See notes following RCW 2.32.180.

**36.105.090 Annexation.** A community council may provide for the annexation of adjacent unincorporated areas to the community that are not included within another community for which a community council has been established. Annexations shall be initiated by either resolution of the community council proposing the annexation or petition of voters residing in the adjacent area, which petition: (a) Requests the annexation; (b) sets forth the boundaries of the area proposed to be annexed; and (c) contains signatures of voters residing within the area that is proposed to be annexed equal in number to at least ten percent of the voters residing in that area who voted at the last state general election. Annexation petitions shall be filed with the county auditor who shall determine if the petitions contain a sufficient number of valid signatures, certify the sufficiency of the petitions, and notify the community council of the sufficiency of the petitions within fifteen days of when the petitions are submitted.

A ballot proposition authorizing the annexation shall be submitted to the voters of the area that is proposed to be annexed at a primary or general election in either an odd-numbered or even-numbered year, if the community council initiated the annexation by resolution or if the community council concurs in an annexation that was initiated by the submission of annexation petitions containing sufficient valid signatures. The annexation shall occur if the ballot proposition authorizing the creation of the community is approved by a simple majority vote of the voters voting on the proposition. The county's comprehensive plan, and where applicable to the county's subarea plan, and zoning ordinances shall continue in effect in the annexed area until proposed amendments

to the approved community comprehensive plans and approved community zoning ordinance have been approved that apply to the annexed area. [1991 c 363 § 107.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

**36.105.100 Dissolution.** A community council shall be dissolved if the population of the community is reduced to less than five hundred persons, or less than two hundred persons if the community only includes an entire island.

At the next general election at which community councilmembers would be elected, occurring at least four years after the creation or reestablishment of a community, a ballot proposition shall be submitted to the voters of the community on whether the community shall be reestablished. If reestablished, the newly elected members of the community council and the retained members of the community council shall constitute the members of the community council. [1991 c 363 § 108.]

**Purpose**—**Captions not law**—1991 c 363: See notes following RCW 2.32.180.

## Title 38

### MILITIA AND MILITARY AFFAIRS

#### Chapters

- 38.04 General provisions.
- 38.12 Militia officers and advisory council.
- 38.16 Enlistments and reserves.
- 38.24 Claims and compensation.
- 38.38 Washington code of military justice.
- 38.40 Miscellaneous provisions.
- 38.44 Enrollment of persons.
- 38.52 Emergency management.

#### Chapter 38.04

#### GENERAL PROVISIONS

##### Sections

- 38.04.010 General definitions.

**38.04.010 General definitions.** When used in this title, the following words, terms, phrases shall have the following meaning:

The word "militia" shall mean the military forces provided for in the Constitution and laws of the state of Washington.

The term "organized militia" shall be the general term to include both state and national guard and whenever used applies equally to all such organizations.

The term "national guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the national defense act of the United States, and, in the event the national guard is called into federal service or in the event the state guard or any part or individual member

thereof is called into active state service by the commander-in-chief, the term shall also include the "Washington state guard" or any temporary organization set up in times of emergency to replace either the "national guard" or "state guard" while in actual service of the United States.

The term "state guard" shall mean that part of the military forces of the state that is organized, equipped, and recognized under the provisions of the State Defense Forces Act of the United States (32 U.S.C. Sec. 109, as amended).

The term "active state service" or "active training duty" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States.

The term "inactive duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty.

The terms "in service of United States" and "not in service of United States" as used herein shall be understood to mean the same as such terms when used in the national defense act of congress and amendments thereto.

The term "military" refers to any or all of the armed forces.

The term "armory" refers to any state-owned building, warehouse, vehicle storage compound, organizational maintenance shop or other facility and the lands appurtenant thereto used by the Washington national guard for the storage and maintenance of arms or military equipment or the administration or training of the organized militia.

The term "member" refers to a soldier or airman of the organized militia. [1991 c 43 § 1; 1989 c 19 § 1; 1963 c 220 § 133; 1943 c 130 § 12; Rem. Supp. 1943 § 8603-12. Prior: 1917 c 107 §§ 1, part, 3, part; 1909 c 134 § 10, part; 1895 c 108 § 10, part.]

**Short title:** "This act shall be known as the Military Code of the state of Washington." [1943 c 130 § 1.]

**Severability**—1943 c 130: "If any provisions of this act or the application thereof to any person or circumstances is held invalid for any reason, such determination shall not affect other provisions or applications of the act which can be given effect without the invalid provisions, and to this end, the provisions of this act are declared to be severable." [1943 c 130 § 95.]

**Martial law:** RCW 38.08.030.

#### Chapter 38.12

#### MILITIA OFFICERS AND ADVISORY COUNCIL

##### Sections

- 38.12.200 Uniform allowance to officers.

**38.12.200 Uniform allowance to officers.** Every commissioned officer of the organized militia of Washington shall, within sixty days from the date of the

order whereby he or she shall have been appointed, provide at the officer's own expense the uniform and equipment prescribed by the governor for his or her rank and assignment.

There shall be audited and may be paid, at the option of the adjutant general, to each properly uniformed and equipped officer of the active list of the organized militia of Washington, not in federal service an initial uniform allowance of one hundred dollars and annually thereafter for each twelve months state service an additional uniform allowance of fifty dollars, subject to such regulations as the commander-in-chief may prescribe to be audited and paid upon presentation of proper voucher. [1991 c 43 § 2; 1989 c 19 § 22; 1982 c 93 § 1; 1943 c 130 § 37; Rem. Supp. 1943 § 8603-37. Prior: 1923 c 49 § 1; 1917 c 107 § 32; 1909 c 134 § 49; 1903 c 155 § 11; 1901 c 78 § 8; 1895 c 108 § 76.]

### Chapter 38.16

#### ENLISTMENTS AND RESERVES

##### Sections

38.16.030 Inactive national guard.

**38.16.030 Inactive national guard.** The inactive national guard of this state shall respectively be organized by the governor in regulations in conformance with the laws, rules and regulations of the United States. It shall consist of such organizations, officers and enlisted men as the governor shall prescribe. No commissioned officer shall be transferred or furloughed to the inactive national guard without the officer's written consent, except as otherwise expressly provided by law. Any officer of the inactive national guard may be restored to the active list by order of the governor, subject to the same examination as in the case of an original appointment to his or her rank, and in such event his or her service in the inactive national guard shall not be counted in computing total length of service for relative seniority. [1991 c 43 § 3; 1989 c 19 § 32; 1943 c 130 § 34; Rem. Supp. 1943 § 8603-34. Prior: 1917 c 107 § 29.]

### Chapter 38.24

#### CLAIMS AND COMPENSATION

##### Sections

38.24.010 Payment of military claims.

**38.24.010 Payment of military claims.** All bills, claims and demands for military purposes shall be certified or verified and audited in the manner prescribed by regulations promulgated by the governor and shall be paid by the state treasurer from funds available for that purpose. In all cases where the organized militia, or any part of the organized militia, is called into the service of the state to execute or enforce the laws or in case of war, riot, insurrection, invasion, breach of the peace, public disaster, or the imminent danger of the occurrence of any of these events, warrants for allowed pay and expenses for such services or compensation for injuries or

death shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund not otherwise appropriated. All such warrants shall be the obligation of the state and shall bear interest at the legal rate from the date of their presentation for payment. [1991 c 43 § 4; 1989 c 19 § 36; 1973 c 106 § 14; 1943 c 130 § 42; Rem. Supp. 1943 § 8603-42. Prior: 1917 c 107 § 36; 1909 c 134 § 56, part; 1895 c 108 § 91, part.]

### Chapter 38.38

#### WASHINGTON CODE OF MILITARY JUSTICE

##### Sections

	PART I.—GENERAL PROVISIONS
38.38.132	[Art. 15] Commanding officer's nonjudicial punishment—Suspension—Appeal.
38.38.260	[Art. 27] Detail of trial counsel and defense counsel.
38.38.404	[Art. 45] Pleas of the accused.
38.38.564	[Art. 66] Review counsel.

**38.38.132 [Art. 15] Commanding officer's nonjudicial punishment—Suspension—Appeal.** (1) Under such regulations as the governor may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the organized militia under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the governor, a commanding officer exercising general court-martial jurisdiction or an officer of general rank in command may delegate powers under this section to a principal assistant.

(2) Subject to subsection (1) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(a) Upon officers of his or her command:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive duty or drill days;

(ii) If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:

(A) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive drill or duty days;

(C) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month;

(b) Upon other personnel of his or her command:

(i) If imposed upon a person attached to or embarked in a vessel, confinement for not more than three consecutive days;

(ii) Forfeiture of not more than seven days' pay;

(iii) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(iv) Extra duties, including fatigue or other duties for not more than fourteen duty or drill days, which need not be consecutive, and for not more than two hours per day, holidays included;

(v) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(vi) Detention of not more than fourteen days' pay;

(vii) If imposed by an officer of the grade of major or above:

(A) The punishment authorized in subsection (2)(b)(i) of this section;

(B) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(C) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(D) Extra duties, including fatigue or other duties, for not more than fourteen drill or duty days, which need not be consecutive, and for not more than two hours per day, holidays included;

(E) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(F) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month.

Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. Extra duties and restriction may not be combined to run consecutively in the maximum amount imposable for each. Whenever any such punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment.

(3) An officer in charge may impose upon enlisted members assigned to the unit of which the officer is in charge such of the punishment authorized under subsection (2)(b) of this section as the governor may specifically prescribe by regulation.

(4) The officer who imposes the punishment authorized in subsection (2) of this section, or a successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (2) of this section,

whether or not executed. In addition, the officer may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. The officer may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating extra duties to restriction, the restriction shall not be longer than the number of hours of extra duty that may have been imposed. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

(a) Forfeiture of more than seven days' pay;

(b) Reduction of one or more pay grades from the fourth or a higher pay grade;

(c) Extra duties for more than ten days;

(d) Restriction for more than ten days; or

(e) Detention of more than fourteen days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (2) of this section.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) The governor may by regulation prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing. [1991 c 43 § 5; 1989 c 48 § 15; 1963 c 220 § 15.]

**38.38.260 [Art. 27] Detail of trial counsel and defense counsel.** (1)(a) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The governor shall prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

(b) No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(2) Trial counsel or defense counsel detailed for a general court-martial:

(a) Must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a federal court or of the highest court of a state, or must be a member of the bar of a federal court or of the highest court of a state; and

(b) Must be certified as competent to perform such duties by the state judge advocate.

(3) In the case of a special court-martial:

(a) The accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under subsection (2) of this section unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel having such qualifications cannot be obtained, the court may be convened and the trial held but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;

(b) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(c) If the trial counsel is a judge advocate or a member of the bar of a federal court or the highest court of a state, the defense counsel detailed by the convening authority must be one of the foregoing. [1991 c 43 § 6; 1989 c 48 § 27; 1963 c 220 § 29.]

**38.38.404 [Art. 45] Pleas of the accused.** (1) If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(2) With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty. [1991 c 43 § 7; 1989 c 48 § 44; 1963 c 220 § 47.]

**38.38.564 [Art. 66] Review counsel.** (1) Upon the final review of a sentence of a general court-martial, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate.

(2) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the organized militia and who has the qualifications prescribed in RCW 38.38.260, if available, to represent the accused before the reviewing authority, before the staff judge advocate, and before the state judge advocate, in the review of cases specified in subsection (1) of this section.

(3) If provided by the accused, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate. [1991 c 43 § 8; 1989 c 48 § 57; 1963 c 220 § 69.]

## Chapter 38.40

### MISCELLANEOUS PROVISIONS

#### Sections

38.40.060	Military leaves for public employees.
38.40.110	Employment or membership in other organizations—Discrimination prohibited—Penalty—Civil cause of action.

**38.40.060 Military leaves for public employees.** Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each calendar year. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay. [1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

**Application—1991 c 25:** "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

**38.40.110 Employment or membership in other organizations—Discrimination prohibited—Penalty—Civil cause of action.** No club, society, association, corporation, employer, or organization shall by any constitution, rule, bylaws, resolution, vote or regulation, or otherwise, discriminate against or refuse to hire, employ, or reemploy any member of the organized

militia of Washington because of his or her membership in said organized militia. Any person or persons, club, society, association, employer, corporation, or organization, violating or aiding, abetting, or assisting in the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding one hundred dollars and in addition thereto shall forfeit the right to do business for a period of thirty days. Any person who has been discriminated against in violation of this section shall have a civil cause of action for damages. [1991 c 43 § 9; 1989 c 19 § 52; 1943 c 130 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1917 c 107 § 42; 1909 c 134 § 68.]

### Chapter 38.44 ENROLLMENT OF PERSONS

#### Sections

38.44.020	Notice of enrollment.
38.44.030	Exemptions.
38.44.040	Penalties for dereliction or false certificate.
38.44.050	Compensation of enrolling officer.
38.44.060	Examination of records.

**38.44.020 Notice of enrollment.** Persons making an enrollment under this chapter shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to the enrollee personally or by leaving it with some person of suitable age and discretion at his or her place of business or residence, or by mailing such notice to him or her at the enrollee's last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the adjutant general. The return shall be prima facie evidence of the facts therein. [1991 c 43 § 10; 1989 c 19 § 56; 1909 c 134 § 5; 1895 c 108 § 5; RRS § 8457.]

**38.44.030 Exemptions.** Whenever an enrollment shall have been ordered under this chapter, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling officer shall also mark "Exempt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one copy thereof with remarks and recommendations to the adjutant general. Upon the expiration of the time within which any claim of exemption may be filed and received by the adjutant general, the latter shall notify the county auditor of the decision in each case where exemption has been claimed, and the

county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the adjutant general, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty. [1991 c 43 § 11; 1989 c 19 § 57; 1909 c 134 § 6; 1895 c 108 § 6, part; RRS § 8458.]

**38.44.040 Penalties for dereliction or false certificate.** If any officer or person, who becomes charged under this chapter with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he or she shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he or she shall knowingly or willfully omit from the roll any person required by this chapter to be enrolled he or she shall thereby forfeit not less than one hundred nor more than five hundred dollars, to be sued for in the name of the state of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and, when recovered, to be paid into the general fund of the state. [1991 c 43 § 12; 1989 c 19 § 58; 1909 c 134 § 7; RRS § 8459.]

**38.44.050 Compensation of enrolling officer.** Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by the enrolling officer or assistants, to be audited and paid as other military bills out of any moneys in the general fund appropriated to the military department, and from such allowance the enrolling officer must pay the assistant or assistants. [1991 c 43 § 13; 1989 c 19 § 59; 1909 c 134 § 8; RRS § 8460.]

**38.44.060 Examination of records.** All civil officers in each county, city and town shall allow persons authorized under this chapter to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in RCW 38.44.040, upon application of any person legally authorized to make an enrollment, truthfully to state all of the facts within his or her knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty. [1991 c 43 § 14; 1989 c 19 § 60; 1909 c 134 § 9; 1895 c 108 § 6, part; RRS § 8461.]

### Chapter 38.52 EMERGENCY MANAGEMENT

#### Sections

38.52.030	Director—Comprehensive emergency management plan—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs. (Effective unless
-----------	--

- Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.030 Director—Comprehensive emergency management plan—Communications coordinating committee—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.500 State-wide 911 enhanced service—Funding. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.510 State-wide 911 enhanced service—Funding by counties. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.520 State enhanced 911 coordination office. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.530 Enhanced 911 advisory committee—Expiration of section. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.540 Enhanced 911 account. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)
- 38.52.550 Emergency communications systems and information—Immunity from civil liability.

**38.52.030 Director—Comprehensive emergency management plan—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs. (Effective unless Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)** (1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage

the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The director may appoint a communications coordinating committee consisting of six to eight persons with the director, or his or her designee, as chairman thereof. Three of the members shall be appointed from qualified, trained and experienced telephone communications administrators or engineers actively engaged in such work within the state of Washington at the time of appointment, and three of the members shall be appointed from qualified, trained and experienced radio communication administrators or engineers actively engaged in such work within the state of Washington at the time of appointment. This committee shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(8) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a

disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(9) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency response;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director. [1991 c 322 § 20; 1986 c 266 § 25; 1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

**Findings—Intent—1991 c 322:** See note following RCW 86.12.200.

**Severability—1986 c 266:** See note following RCW 38.52.005.

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

*Hazardous and radioactive wastes: Chapters 70.98, 70.99, 70.105, 70.136 RCW.*

**38.52.030 Director—Comprehensive emergency management plan—Communications coordinating committee—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs. (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.)**

(1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of

other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The director may appoint a communications coordinating committee consisting of six to eight persons with the director, or his or her designee, as chairman thereof. Three of the members shall be appointed from qualified, trained and experienced telephone communications administrators or engineers actively engaged in such work within the state of Washington at the time of appointment, and three of the members shall be appointed from qualified, trained and experienced radio communication administrators or engineers actively engaged in such work within the state of Washington at the time of appointment. This committee shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a state-wide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for

which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency response;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director. [1991 c 322 § 20; 1991 c 54 § 2; 1986 c 266 § 25; 1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

**Reviser's note:** This section was amended by 1991 c 54 § 2 and by 1991 c 322 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Intent—1991 c 322:** See note following RCW 86.12.200.

**Referral to electorate—1991 c 54:** "Sections 1 through 6 and 9 through 16 of this act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate

the operation thereof. The ballot title for this act shall be: "Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?" [1991 c 54 § 17.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

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

*Hazardous and radioactive wastes: Chapters 70.98, 70.99, 70.105, 70.136 RCW.*

**38.52.500 State-wide 911 enhanced service—Finding.** (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.) The legislature finds that a state-wide emergency communications network of enhanced 911 telephone service, which allows an immediate display of a caller's identification and location, would serve to further the safety, health, and welfare of the state's citizens, and would save lives. The legislature, after reviewing the study outlined in section 1, chapter 260, Laws of 1990, further finds that state-wide implementation of enhanced 911 telephone service is feasible and should be accomplished as soon as practicable. [1991 c 54 § 1.]

**Referral to electorate—1991 c 54:** See note following RCW 38.52.030.

**38.52.510 State-wide 911 enhanced service—Funding by counties.** (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.) By December 31, 1998, each county, singly or in combination with adjacent counties, shall implement district-wide, county-wide, or multicounty-wide enhanced 911 emergency communications systems so that enhanced 911 is available throughout the state. The county shall provide funding for the enhanced 911 communication system in the county or district in an amount equal to the amount the maximum tax under RCW 82.14B.030(1) would generate in the county or district or the amount necessary to provide full funding of the system in the county or district, whichever is less. The state enhanced 911 coordination office established by RCW 38.52.520 shall assist and facilitate enhanced 911 implementation throughout the state. [1991 c 54 § 3.]

**Referral to electorate—1991 c 54:** See note following RCW 38.52.030.

**38.52.520 State enhanced 911 coordination office.** (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.) A state enhanced 911 coordination office, headed by the state enhanced 911 coordinator, is established in the emergency management division of the department. Duties of the office shall include:

(1) Coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state;

(2) Seeking advice and assistance from, and providing staff support for, the enhanced 911 advisory committee; and

(3) Recommending to the utilities and transportation commission by August 31st of each year the level of the

state enhanced 911 excise tax for the following year. [1991 c 54 § 4.]

**Referral to electorate—1991 c 54:** See note following RCW 38.52.030.

**38.52.530 Enhanced 911 advisory committee—**  
**Expiration of section.** (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.) The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers northwest, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of fire fighters, the Washington state council of police officers, the Washington ambulance association, the state fire policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, and representatives of large and small local exchange telephone companies. This section shall expire December 31, 2000. [1991 c 54 § 5.]

**Referral to electorate—1991 c 54:** See note following RCW 38.52.030.

**38.52.540 Enhanced 911 account.** (Effective December 5, 1991, if Referendum Bill No. 42 is approved by the electorate at the November 1991 general election.) The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to help implement and operate enhanced 911 state-wide. The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall specify by rule the purposes for which moneys may be expended from this account. [1991 c 54 § 6.]

**Referral to electorate—1991 c 54:** See note following RCW 38.52.030.

**38.52.550 Emergency communications systems and information—Immunity from civil liability.** A telecommunications company providing emergency communications systems or services or a business or individual providing data base information to emergency communication system personnel shall not be liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to a 911 or enhanced 911 emergency service; or

(2) Design, development, installation, maintenance, or provision of consolidated 911 or enhanced 911 emergency communication systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct. [1991 c 329 § 7.]

## Title 39

### PUBLIC CONTRACTS AND INDEBTEDNESS

#### Chapters

- 39.04** Public works.
- 39.12** Prevailing wages on public works.
- 39.30** Contracts—Indebtedness limitations—Competitive bidding violations.
- 39.33** Intergovernmental disposition of property.
- 39.34** Interlocal cooperation act.
- 39.35** Energy conservation in design of public facilities.
- 39.35C** Energy conservation projects.
- 39.44** Bonds—Form, terms of sale, payment, etc.
- 39.58** Public funds—Deposits and investments—Public depositories.
- 39.86** Private activity bond allocation.
- 39.94** Financing contracts.

#### Chapter 39.04

### PUBLIC WORKS

#### Sections

- 39.04.155 Small works roster contract awards process.
- 39.04.190 Purchase contract process—Other than formal sealed bidding.
- 39.04.200 Posting of small works roster or purchase awards.
- 39.04.210 Correctional facilities construction—Findings.
- 39.04.220 Correctional facilities construction—Use of general contractor/construction manager method for awarding contracts.
- 39.04.230 Correctional facilities construction—Alternative contracting method to remain in force until contracts completed.

**39.04.155 Small works roster contract awards process.** (1) This section provides a uniform process to award contracts for public works projects by those counties that are authorized to use a small works roster in lieu of the requirements for formal sealed bidding. The state statutes governing counties shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the small works roster process, for the county.

(2) Counties may create a single general small works roster, or may create a small works roster for different categories of anticipated work. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. At least once a year, the county shall publish in a newspaper of general circulation within the

jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters.

The governing body of the county shall establish a procedure for securing telephone or written quotations from the contractors on the general small works roster, or a specific small works roster for the appropriate category of work, to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Such invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Whenever possible at least five contractors shall be invited to submit bids. Once a contractor has been afforded an opportunity to submit a proposal, that contractor shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a proposal on a contract.

A contract awarded from a small works roster under this section need not be advertised.

Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. [1991 c 363 § 109.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Competitive bids**—Contract procedure: RCW 36.32.250.

**39.04.190 Purchase contract process—Other than formal sealed bidding.** (1) This section provides a uniform process to award contracts for the purchase of any materials, equipment, supplies, or services by those counties that are authorized to use this process in lieu of the requirements for formal sealed bidding. The state statutes governing counties shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the awarding of contracts for purchases, for the county.

(2) At least once per year, the county shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of vendor lists and solicit the names of vendors for the lists. Counties shall by resolution establish a procedure for securing telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, supplies, or services to the lowest responsible bidder as defined in RCW 43.19.1911. Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this section need not be advertised. [1991 c 363 § 110.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**39.04.200 Posting of small works roster or purchase awards.** Any county that utilizes the small works roster

process established in RCW 39.04.155 to award contracts for public works projects, or the uniform process established in RCW 39.04.190 to award contracts for purchases, must post a list of the contracts awarded under RCW 39.04.155 and 39.04.190 at least once every two months. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection. [1991 c 363 § 111.]

**Purpose**—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**39.04.210 Correctional facilities construction—Findings.** The legislature recognizes that fair and open competition is a basic tenet of public works procurement, that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically, and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which contractual services are procured. The legislature finds that there exists an urgent need for additional correctional facilities due to the inadequate capacity of existing correctional facilities to accommodate the present size and predicted growth of offender populations. The legislature further finds that both the need and the urgency to construct additional state correctional facilities requires the temporary use of more expedient methods for awarding state construction contracts for correctional facilities. [1991 c 130 § 1.]

**Severability**—1991 c 130: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 130 § 4.]

**39.04.220 Correctional facilities construction—Use of general contractor/construction manager method for awarding contracts.** (1) In addition to currently authorized methods of public works contracting, and in lieu of the requirements of RCW 39.04.010 and 39.04.020 through 39.04.060, capital projects funded for over ten million dollars appropriated and authorized by the legislature for the department of corrections in the 1989–91 biennium at the McNeil Island corrections center, the Clallam Bay corrections center, the construction of new correctional facilities under the authority of the secretary of corrections including drug camps; work camps; a new medium security prison and such other correctional facilities as may be authorized by the legislature during the biennium ending June 30, 1993, may be accomplished under contract using the general contractor/construction manager method described in this section. For the purposes of this section, "general contractor/construction manager" means a firm with which the department of general administration has selected and negotiated a maximum allowable construction

cost to be guaranteed by the firm, after competitive selection through a formal advertisement, and competitive bids to provide services that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the general contractor during the construction phase. The department of general administration shall establish an independent oversight advisory committee with representatives of interest groups with an interest in this subject area, the department of corrections, and the private sector, to review selection and contracting procedures. The general contractor/construction manager method is limited to contracts signed before July 1, 1996.

(2) Contracts for the services of a general contractor/construction manager awarded under the authority of this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. Minority and women enterprise total project goals shall be specified in the bid instructions to the general contractor/construction manager finalists. The director of general administration is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost. The director of general administration or his or her designee shall establish a committee to evaluate the proposals considering such factors as ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal. After the committee has selected the most qualified finalists, these finalists shall submit sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The maximum allowable construction cost may be negotiated between the department of general administration and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the department of general administration is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the department of general administration determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the department of general administration shall negotiate with the next low bidder and continue until an agreement is reached or the process is terminated. If the maximum

allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the state, the percent fee shall be renegotiated. All subcontract work shall be competitively bid with public bid openings. Specific goals for women and minority enterprises shall be specified in each subcontract bid package that responsive bidders will have to meet or exceed. All subcontractors who bid work over one hundred thousand dollars shall post a bid bond and the awarded subcontractor shall provide a performance and payment bond for their contract amount if required by the general contractor/construction manager. The bidding of subcontract work by the general contractor/construction manager or its subsidiaries is prohibited but it may negotiate with the low-responsive bidder in accordance with RCW 39.04.015 or rebid if authorized by the director of general administration in the event no bids are received, the bids received are over the budget amount, or the subcontractor fails to perform.

(3) If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the state. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the state, the additional cost shall be the responsibility of the general contractor/construction manager.

(4) The powers and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of the department of general administration. [1991 c 130 § 2.]

**Severability—1991 c 130:** See note following RCW 39.04.210.

**39.04.230 Correctional facilities construction—Alternative contracting method to remain in force until contracts completed.** Methods of public works contracting authorized by RCW 39.04.210 and 39.04.220 shall remain in full force and effect until completion of contracts signed on or before June 30, 1996. [1991 c 130 § 3.]

**Severability—1991 c 130:** See note following RCW 39.04.210.

## Chapter 39.12

### PREVAILING WAGES ON PUBLIC WORKS

#### Sections

39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment—Alternative procedure.

**39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment—Alternative procedure.** (1) Except as provided in subsection (2) of this section, before payment is made

by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

(a) The contractor's registration certificate number; and

(b) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefilled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency shall retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency shall require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.010. Within thirty days of receipt of the affidavit of wages paid, the awarding agency shall submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid shall be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in subsection (2) of this section, the awarding agency shall pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section shall be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by RCW 39.12.040(1). [1991 c 15 § 1; 1982 c 130 § 2; 1981 c 46 § 2; 1975-'76 2nd ex.s. c 49 § 1; 1965 ex.s. c 133 § 3; 1945 c 63 § 4; Rem. Supp. 1945 § 10322-23.]

### Chapter 39.30

#### CONTRACTS—INDEBTEDNESS LIMITATIONS—COMPETITIVE BIDDING VIOLATIONS

##### Sections

39.30.045 Purchase at auctions.

**39.30.045 Purchase at auctions.** Any county may purchase any supplies, equipment, or materials at auctions conducted by the government of the United States or any agency thereof, any agency of the state of Washington, any municipality or other government agency, or any private party without being subject to public bidding requirements if the items can be obtained at a competitive price. [1991 c 363 § 112.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

### Chapter 39.33

#### INTERGOVERNMENTAL DISPOSITION OF PROPERTY

##### Sections

39.33.070 School districts and libraries—Disposal of obsolete or surplus reading materials—Procedures.

**39.33.070 School districts and libraries—Disposal of obsolete or surplus reading materials—Procedures.** Any school district or educational service district, after complying with the requirements of RCW 28A.335.180, and any library, as defined in RCW 27.12.010, may dispose of surplus or obsolete books, periodicals, newspapers, and other reading materials as follows:

(1) If the reading materials are estimated to have value as reading materials in excess of one thousand

dollars, they shall be sold at public auction to the person submitting the highest reasonable bid following publication of notice of the auction in a newspaper with a general circulation in the library or school district.

(2) If no reasonable bids are submitted under subsection (1) of this section or if the reading materials are estimated to have value as reading materials of one thousand dollars or less, the library or school district may directly negotiate the sale of the reading materials to a public or private entity.

(3) If the reading materials are determined to have no value as reading materials or if no purchaser is found under subsection (2) of this section the reading materials may be recycled or destroyed.

These methods for disposing of surplus or obsolete reading materials shall be in addition to any other method available to libraries and school districts for disposal of the property. [1990 c 33 § 567; 1979 ex.s. c 134 § 1.]

~~Purpose~~—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

### Chapter 39.34

## INTERLOCAL COOPERATION ACT

#### Sections

39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects.

**39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects.** (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter: PROVIDED, That any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity

may include a nonprofit corporation whose membership is limited solely to the participating public agencies and the funds of any such corporation shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of ----- joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

(6) Financing of joint projects by agreement shall be as provided by law. [1990 c 33 § 568; 1981 c 308 § 2; 1972 ex.s. c 81 § 1; 1967 c 239 § 4.]

~~Purpose~~—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

~~Severability~~—1981 c 308: See note following RCW 28A.320.080. *Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.*

### Chapter 39.35

## ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES

#### Sections

39.35.030 Definitions.  
39.35.050 Life-cycle cost analysis—Guidelines.  
39.35.060 Life-cycle cost analysis—Review fees.

**39.35.030 Definitions.** For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Office" means the Washington state energy office.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the state energy office. The office shall update these projections at least every two years.

(8) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(9) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(10) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may

use computers or such other methods as are capable of producing predictable results.

(11) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(12) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply. [1991 c 201 § 14; 1982 c 159 § 3; 1975 1st ex.s. c 177 § 3.]

**Captions not law—Severability—1991 c 201:** See RCW 39.35C.900 and 39.35C.901.

**Applicability—1982 c 159:** See notes following RCW 39.35.010.

### **39.35.050 Life-cycle cost analysis—Guidelines.**

The office, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter. The purpose of the guidelines is to define a procedure and method for performance of life-cycle cost analysis to promote the selection of low-life-cycle cost alternatives. At a minimum, the guidelines must contain provisions that:

(1) Address energy considerations during the planning phase of the project;

(2) Identify energy components and system alternatives including renewable energy systems and cogeneration applications prior to commencing the energy consumption analysis;

(3) Establish times during the design process for preparation, review, and approval or disapproval of the life-cycle cost analysis;

(4) Specify the assumptions to be used for escalation and inflation rates, equipment service lives, economic building lives, and maintenance costs;

(5) Determine life-cycle cost analysis format and submittal requirements to meet the provisions of chapter 201, Laws of 1991;

(6) Provide for review and approval of life-cycle cost analysis. [1991 c 201 § 15.]

**Captions not law—Severability—1991 c 201:** See RCW 39.35C.900 and 39.35C.901.

### **39.35.060 Life-cycle cost analysis—Review fees.**

The energy office may impose fees upon affected public agencies for the review of life-cycle cost analyses. The fees shall be deposited in the energy efficiency services account established in RCW 39.35C.110. The purpose of the fees is to recover the costs by the office for review of the analyses. The office shall set fees at a level necessary to recover all of its costs related to increasing the energy efficiency of state-supported new construction. The fees shall not exceed one-tenth of one percent of the total cost of any project or exceed two thousand dollars for any project unless mutually agreed to. The office shall

provide detailed calculation ensuring that the energy savings resulting from its review of life-cycle cost analysis justify the costs of performing that review. [1991 c 201 § 16.]

**Captions not law—Severability—1991 c 201:** See RCW 39.35C.900 and 39.35C.901.

### Chapter 39.35C

## ENERGY CONSERVATION PROJECTS

#### Sections

39.35C.010	Definitions.
39.35C.020	State agency and school district conservation projects—Implementation—Energy office assistance.
39.35C.030	Energy office coordination of conservation development with utilities.
39.35C.040	Sale of conserved energy.
39.35C.050	Authority of state agencies and school districts to implement conservation.
39.35C.060	Authority to finance conservation in school districts and state agencies.
39.35C.070	Development of cogeneration projects.
39.35C.080	Sale of cogenerated electricity and thermal energy.
39.35C.090	Additional authority of state agencies.
39.35C.100	Energy efficiency construction account.
39.35C.110	Energy efficiency services account—Fees.
39.35C.120	Project benefits.
39.35C.130	Adoption of rules.
39.35C.900	Captions not law—1991 c 201.
39.35C.901	Severability—1991 c 201.

**39.35C.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but does not include thermal or electric energy production from cogeneration.

(3) "Cost-effective" means that the present value to a state agency or school district of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Energy" means energy as defined in RCW 43.21F.025(1).

(5) "Energy efficiency project" means a conservation or cogeneration project.

(6) "Energy efficiency services" means assistance furnished by the energy office to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(7) "Energy office" means the Washington state energy office.

(8) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(9) "Public facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency or school district.

(10) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(11) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(12) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

(13) "Local utility" means the utility or utilities in whose service territory a public facility is located. [1991 c 201 § 2.]

**39.35C.020 State agency and school district conservation projects—Implementation—Energy office assistance.** (1) Each state agency and school district shall implement cost-effective conservation improvements and maintain efficient operation of its facilities in order to minimize energy consumption and related environmental impacts and reduce operating costs.

(2) The energy office shall assist state agencies and school districts in identifying, evaluating, and implementing cost-effective conservation projects at their facilities. The assistance shall include the following:

(a) Notifying state agencies and school districts of their responsibilities under this chapter;

(b) Apprising state agencies and school districts of opportunities to develop and finance such projects;

(c) Providing technical and analytical support, including procurement of performance-based contracting services;

(d) Reviewing verification procedures for energy savings; and

(e) Assisting in the structuring and arranging of financing for cost-effective conservation projects.

(3) Conservation projects implemented under this chapter shall have appropriate levels of monitoring to verify the performance and measure the energy savings over the life of the project. The energy office shall solicit involvement in program planning and implementation from utilities and other energy conservation suppliers, especially those that have demonstrated experience in performance-based energy programs.

(4) The energy office shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(5) The energy office shall recover any costs and expenses it incurs in providing assistance pursuant to this section, including reimbursement from third parties participating in conservation projects. The energy office shall enter into a written agreement with the state

agency or school district for the recovery of costs. [1991 c 201 § 3.]

**39.35C.030 Energy office coordination of conservation development with utilities.** (1) The energy office shall consult with the local utilities to develop priorities for energy conservation projects pursuant to this chapter, cooperate where possible with existing utility programs, and consult with the local utilities prior to implementing projects in their service territory.

(2) A local utility shall be offered the initial opportunity to participate in the development of conservation projects in the following manner:

(a) Before initiating projects in a local utility service territory, the energy office shall notify the local utility in writing, on an annual basis, of public facilities in the local utility's service territory at which the energy office anticipates cost-effective conservation projects will be developed.

(b) Within sixty days of receipt of this notification, the local utility may express interest in these projects by submitting to the energy office a written description of the role the local utility is willing to perform in developing and acquiring the conservation at these facilities. This role may include any local utility conservation programs which would be available to the public facility, any competitive bidding or solicitation process which the local utility will be undertaking in accordance with the rules of the utilities and transportation commission or the public utility district, municipal utility, cooperative, or mutual governing body for which the public facility would be eligible, or any other role the local utility may be willing to perform.

(c) Upon receipt of the written description from the local utility, the energy office shall, through discussions with the local utility, and with involvement from state agencies and school districts responsible for the public facilities, develop a plan for coordinated delivery of conservation services and financing or make a determination of whether to participate in the local utility's competitive bidding or solicitation process. The plan shall identify the local utility in roles that the local utility is willing to perform and that are consistent with the provisions of RCW 39.35C.040(2) (d) and (e). [1991 c 201 § 4.]

**39.35C.040 Sale of conserved energy.** (1) It is the intent of this chapter that the state, state agencies, and school districts are compensated fairly for the energy savings provided to utilities and be allowed to participate on an equal basis in any utility conservation program, bidding, or solicitation process. State agencies and school districts shall not receive preferential treatment. For the purposes of this section, any type of compensation from a utility or the Bonneville power administration intended to achieve reductions or efficiencies in energy use which are cost-effective to the utility or the Bonneville power administration shall be regarded as a sale of energy savings. Such compensation may include credits to the energy bill, low or no interest loans, rebates, or payment per unit of energy saved. The energy office shall, in coordination with utilities, the Bonneville

power administration, state agencies, and school districts, facilitate the sale of energy savings at public facilities including participation in any competitive bidding or solicitation which has been agreed to by the state agency or school district. Energy savings may only be sold to local utilities or, under conditions specified in this section, to the Bonneville power administration. The energy office shall not attempt to sell energy savings occurring in one utility service territory to a different utility. Nothing in this chapter mandates that utilities purchase the energy savings.

(2) To ensure an equitable allocation of benefits to the state, state agencies, and school districts, the following conditions shall apply to transactions between utilities or the Bonneville power administration and state agencies or school districts for sales of energy savings:

(a) A transaction shall be approved by both the energy office and the state agency or school district.

(b) The energy office and the state agency or school district shall work together throughout the planning and negotiation process for such transactions unless the energy office determines that its participation will not further the purposes of this section.

(c) Before making a decision under (d) of this subsection, the energy office shall review the proposed transaction for its technical and economic feasibility, the adequacy and reasonableness of procedures proposed for verification of project or program performance, the degree of certainty of benefits to the state, state agency, or school district, the degree of risk assumed by the state or school district, the benefits offered to the state, state agency, or school district and such other factors as the energy office determines to be prudent.

(d) The energy office shall approve a transaction unless it finds, pursuant to the review in (c) of this subsection, that the transaction would not result in an equitable allocation of costs and benefits to the state, state agency, or school district, in which case the transaction shall be disapproved.

(e) In addition to the requirements of (c) and (d) of this subsection, in areas in which the Bonneville power administration has a program for the purchase of energy savings at public facilities, the energy office shall approve the transaction unless the local utility cannot offer a benefit substantially equivalent to that offered by the Bonneville power administration, in which case the transaction shall be disapproved. In determining whether the local utility can offer a substantially equivalent benefit, the energy office shall consider the net present value of the payment for energy savings; any goods, services, or financial assistance provided by the local utility; and any risks borne by the local utility. Any direct negative financial impact on a nongrowing, local utility shall be considered.

(3) Any party to a potential transaction may, within thirty days of any decision to disapprove a transaction made pursuant to subsection (2) (c), (d), or (e) of this section, request an independent reviewer who is mutually agreeable to all parties to the transaction to review the decision. The parties shall within thirty days of selection

submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days. [1991 c 201 § 5.]

**39.35C.050 Authority of state agencies and school districts to implement conservation.** In addition to any other authorities conferred by law:

(1) The energy office, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including performance-based contracts; and

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

(3) A school district may:

(a) Develop and finance conservation at school district facilities;

(b) Contract for energy services, including performance-based contracts at school district facilities; and

(c) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or to local utilities or the Bonneville power administration through third parties.

(4) In exercising the authority granted by subsections (1), (2), and (3) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040. [1991 c 201 § 6.]

**39.35C.060 Authority to finance conservation in school districts and state agencies.** (1) The energy office, in accordance with RCW 43.21F.060(2) may use appropriated moneys to make loans to school districts to provide all or part of the financing for conservation projects. The energy office shall determine the eligibility of such projects for conservation loans and the terms of such loans. If loans are from moneys appropriated from bond proceeds, the repayments of the loans shall be sufficient to pay, when due, the principal and interest on the bonds and shall be paid to the energy efficiency construction account established in RCW 39.35C.100. To the extent that a school district applies the proceeds of such loans to a modernization or new construction project, such proceeds shall be considered a portion of the school district's share of the costs of such project.

(2) State agencies may use financing contracts under chapter 39.94 RCW to provide all or part of the funding

for conservation projects. The energy office shall determine the eligibility of such projects for financing contracts. The repayments of the financing contracts shall be sufficient to pay, when due, the principal and interest on the contracts. [1991 c 201 § 7.]

**39.35C.070 Development of cogeneration projects.**

(1) Consistent with the region's need to develop cost-effective, high efficiency electric energy resources, the state shall investigate and, if appropriate, pursue development of cost-effective opportunities for cogeneration in existing or new state facilities.

(2) To assist state agencies in identifying, evaluating, and developing potential cogeneration projects at their facilities, the energy office shall notify state agencies of their responsibilities under this chapter; apprise them of opportunities to develop and finance such projects; and provide technical and analytical support. The energy office shall recover costs for such assistance through written agreements, including reimbursement from third parties participating in such projects, for any costs and expenses incurred in providing such assistance.

(3)(a) The energy office shall identify priorities for cogeneration projects at state facilities, and, where such projects are initially deemed desirable by the energy office and the appropriate state agency, the energy office shall notify the local utility serving the state facility of its intent to conduct a feasibility study at such facility. The energy office shall consult with the local utility and provide the local utility an opportunity to participate in the development of the feasibility study for the state facility it serves.

(b) If the local utility has an interest in participating in the feasibility study, it shall notify the energy office and the state agency whose facility or facilities it serves within sixty days of receipt of notification pursuant to (a) of this subsection as to the nature and scope of its desired participation. The energy office, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement.

(c) If a local utility identifies a potential cogeneration project at a state facility for which it intends to conduct a feasibility study, it shall notify the energy office and the appropriate state agency. The energy office, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement. Nothing in this section shall preclude a local utility from conducting an independent assessment of a potential cogeneration project at a state facility.

(d) Agreements written pursuant to (a) and (b) of this subsection shall include a provision for the recovery of costs incurred by a local utility in performing a feasibility study in the event such utility does not participate in the development of the cogeneration project. If the local utility does participate in the cogeneration project through energy purchase, project development or ownership, recovery of the utility's costs may be deferred or

provided for through negotiation on agreements for energy purchase, project development or ownership.

(e) If the local utility declines participation in the feasibility study, the energy office and the state agency may receive and solicit proposals to conduct the feasibility study from other parties. Participation of these other parties shall also be secured and defined by a written agreement which may include the provision for reimbursement of costs incurred in the formulation of the feasibility study.

(4) The feasibility study shall include consideration of regional and local utility needs for power, the consistency of the proposed cogeneration project with the state energy strategy, the cost and certainty of fuel supplies, the value of electricity produced, the capability of the state agency to own and/or operate such facilities, the capability of utilities or third parties to own and/or operate such facilities, requirements for and costs of standby sources of power, costs associated with interconnection with the local electric utility's transmission system, the capability of the local electric utility to wheel electricity generated by the facility, costs associated with obtaining wheeling services, potential financial risks and losses to the state and/or state agency, measures to mitigate the financial risk to the state and/or state agency, and benefits to the state and to the state agency from a range of design configurations, ownership, and operation options.

(5) Based upon the findings of the feasibility study, the energy office and the state agency shall determine whether a cogeneration project will be cost-effective and whether development of a cogeneration project should be pursued. This determination shall be made in consultation with the local utility or, if the local utility had not participated in the development of the feasibility study, with any third party that may have participated in the development of the feasibility study.

(a) Recognizing the local utility's expertise, knowledge, and ownership and operation of the local utility systems, the energy office and the state agency shall have the authority to negotiate directly with the local utility for the purpose of entering into a sole source contract to develop, own, and/or operate the cogeneration facility. The contract may also include provisions for the purchase of electricity or thermal energy from the cogeneration facility, the acquisition of a fuel source, and any financial considerations which may accrue to the state from ownership and/or operation of the cogeneration facility by the local utility.

(b) The energy office may enter into contracts through competitive negotiation under this subsection for the development, ownership, and/or operation of a cogeneration facility. In determining an acceptable bid, the energy office and the state agency may consider such factors as technical knowledge, experience, management, staff, or schedule, as may be necessary to achieve economical construction or operation of the project. The selection of a developer or operator of a cogeneration facility shall be made in accordance with procedures for competitive bidding under chapter 43.19 RCW.

(c) The energy office shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(6)(a) The state may own and/or operate a cogeneration project at a state facility. However, unless the cogeneration project is determined to be cost-effective, based on the findings of the feasibility study, the energy office and state agency shall not pursue development of the project as a state-owned facility. If the project is found to be cost-effective, and the energy office and the state agency agree development of the cogeneration project should be pursued as a state-owned and/or operated facility, the energy office shall assist the state agency in the preparation of a finance and development plan for the cogeneration project. Any such plan shall fully account for and specify all costs to the state for developing and/or operating the cogeneration facility.

(b) It is the general intent of this chapter that cogeneration projects developed and owned by the state will be sized to the projected thermal energy load of the state facility over the useful life of the project. The principal purpose and use of such projects is to supply thermal energy to a state facility and not primarily to develop generating capacity for the sale of electricity. For state-owned projects with electricity production in excess of projected thermal requirements, the energy office shall seek and obtain legislative appropriation and approval for development. Nothing in chapter 201, Laws of 1991 shall be construed to authorize any state agency to sell electricity or thermal energy on a retail basis.

(7) When a cogeneration facility will be developed, owned, and/or operated by a state agency or third party other than the local serving utility, the energy office and the state agency shall negotiate a written agreement with the local utility. Elements of such an agreement shall include provisions to ensure system safety, provisions to ensure reliability of any interconnected operations equipment necessary for parallel operation and switching equipment capable of isolating the generation facility, the provision of and reimbursement for standby services, if required, and the provision of and reimbursement for wheeling electricity, if the provision of such has been agreed to by the local utility.

(8) The state may develop and own a thermal energy distribution system associated with a cogeneration project for the principal purpose of distributing thermal energy at the state facility. If thermal energy is to be sold outside the state facility, the state may only sell the thermal energy to a utility. [1991 c 201 § 8.]

**39.35C.080 Sale of cogenerated electricity and thermal energy.** It is the intention of chapter 201, Laws of 1991 that the state and its agencies are compensated fairly for the energy provided to utilities from cogeneration at state facilities. Such compensation may include revenues from sales of electricity or thermal energy to utilities, lease of state properties, and value of thermal energy provided to the facility. It is also the intent of chapter 201, Laws of 1991 that the state and its agencies be accorded the opportunity to compete on a fair and reasonable basis to fulfill a utility's new resource

acquisition needs when selling the energy produced from cogeneration projects at state facilities through energy purchase agreements.

(1)(a) The energy office and state agencies may participate in any utility request for resource proposal process, as either established under the rules and regulations of the utilities and transportation commission, or by the governing board of a public utility district, municipal utility, cooperative, or mutual.

(b) If a local utility does not have a request for resource proposal pending, the energy office or a state agency may negotiate an equitable and mutually beneficial energy purchase agreement with that utility.

(2) To ensure an equitable allocation of benefits to the state and its agencies, the following conditions shall apply to energy purchase agreements negotiated between utilities and state agencies:

(a) An energy purchase agreement shall be approved by both the energy office and the affected state agency.

(b) The energy office and the state agency shall work together throughout the planning and negotiation process for energy purchase agreements, unless the energy office determines that its participation will not further the purposes of this section.

(c) Before approving an energy purchase agreement, the energy office shall review the proposed agreement for its technical and economic feasibility, the degree of certainty of benefits, the degree of financial risk assumed by the state and/or the state agency, the benefits offered to the state and/or state agency, and other such factors as the energy office deems prudent. The energy office shall approve an energy purchase agreement unless it finds that such an agreement would not result in an equitable allocation of costs and benefits, in which case the transaction shall be disapproved.

(3)(a) The state or state agency shall comply with and shall be bound by applicable avoided cost schedules, electric power wheeling charges, interconnection requirements, utility tariffs, and regulatory provisions to the same extent it would be required to comply and would be bound if it were a private citizen. The state shall neither seek regulatory advantage, nor change regulations, regulatory policy, process, or decisions to its advantage as a seller of cogenerated energy. Nothing contained in chapter 201, Laws of 1991 shall be construed to mandate or require public or private utilities to wheel electric energy resources within or beyond their service territories. Nothing in chapter 201, Laws of 1991 authorizes any state agency or school district to make any sale of energy or waste heat as defined by RCW 80.62.020(9) beyond the explicit provisions of chapter 201, Laws of 1991. Nothing contained in chapter 201, Laws of 1991 requires a utility to purchase energy from the state or a state agency or enter into any agreement in connection with a cogeneration facility.

(b) The state shall neither construct, nor be party to an agreement for developing a cogeneration project at a state facility for the purpose of supplying its own electrical needs, unless it can show that such an arrangement would be in the economic interest of the state

taking into account the cost of (i) interconnection requirements, as specified by the local electric utility, (ii) standby charges, as may be required by the local electric utility, and (iii) the current price of electricity offered by the local electric utility. If the local electric utility can demonstrate that the cogeneration project may place an undue burden on the electric utility, the energy office or the state agency shall attempt to negotiate a mutually beneficial agreement that would minimize the burden upon the ratepayers of the local electric utility.

(4) Any party to an energy purchase agreement may, within thirty days of any decision made pursuant to subsection (2)(c) of this section to disapprove the agreement made pursuant to this section, request an independent reviewer who is mutually agreeable to all parties to review the decision. The parties shall within thirty days of selection submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days. [1991 c 201 § 9.]

**39.35C.090 Additional authority of state agencies.** In addition to any other authorities conferred by law:

(1) The energy office, with the consent of the state agency responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Contract to sell electric energy generated at state facilities to a utility; and

(b) Contract to sell thermal energy produced at state facilities to a utility.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Acquire, install, permit, construct, own, operate, and maintain cogeneration and facility heating and cooling measures or equipment, or both, at its facilities;

(b) Lease state property for the installation and operation of cogeneration and facility heating and cooling equipment at its facilities;

(c) Contract to purchase all or part of the electric or thermal output of cogeneration plants at its facilities;

(d) Contract to purchase or otherwise acquire fuel or other energy sources needed to operate cogeneration plants at its facilities; and

(e) Undertake procurements for third-party development of cogeneration projects at its facilities, with successful bidders to be selected based on the responsible bid, including nonprice elements listed in RCW 43.19-.1911, that offers the greatest net achievable benefits to the state and its agencies.

(3) After July 28, 1991, a state agency shall consult with the energy office prior to exercising any authority granted by this section.

(4) In exercising the authority granted by subsections (1) and (2) of this section, a state agency must comply with the provisions of RCW 39.35C.080. [1991 c 201 § 10.]

**39.35C.100 Energy efficiency construction account.**

(1) The energy efficiency construction account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) Construction of energy efficiency projects, including project evaluation and verification of benefits, project design, project development, project construction, and project administration.

(b) Payment of principal and interest and other costs required under bond covenant on bonds issued for the purpose of (a) of this subsection.

(2) Sources for this account may include:

(a) General obligation and revenue bond proceeds appropriated by the legislature;

(b) Loan repayments under RCW 39.35C.060 sufficient to pay principal and interest obligations; and

(c) Funding from federal, state, and local agencies.

(3) The energy office shall establish criteria for approving energy efficiency projects to be financed from moneys disbursed from this account. The criteria shall include cost-effectiveness, reliability of energy systems, and environmental costs or benefits. The energy office shall ensure that the criteria are applied with professional standards for engineering and review. [1991 c 201 § 11.]

**39.35C.110 Energy efficiency services account—**

**Fees.** (1) The energy efficiency services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only (a) for the energy office to provide energy efficiency services to state agencies and school districts including review of life-cycle cost analyses and (b) for transfer by the legislature to the state general fund.

(2) All receipts from the following sources shall be deposited into the account:

(a) Project fees charged under this section and RCW 39.35C.020, 39.35C.070, and 39.35C.060;

(b) After payment of any principal and interest obligations, moneys from repayments of loans under RCW 39.35C.060;

(c) Revenue from sales of energy generated or saved at public facilities under this chapter, except those retained by state agencies and school districts under RCW 39.35C.120; and

(d) Payments by utilities and federal power marketing agencies under this chapter, except those retained by state agencies and school districts under RCW 39.35C.120.

(3) The energy office may accept moneys and make deposits to the account from federal, state, or local government agencies.

(4) Within one hundred eighty days after July 28, 1991, the energy office shall adopt rules establishing criteria and procedures for setting a fee schedule, establishing working capital requirements, and receiving deposits for this account. [1991 c 201 § 12.]

**39.35C.120 Project benefits.** (1) Potential benefits from energy efficiency projects at public facilities include savings in the form of reduced energy costs; revenues from lease payments, sales of energy or energy savings, or other sources; avoided capital costs; site enhancements; and additional operating and maintenance resources.

(2) To encourage these projects at state facilities, and notwithstanding any other provision of law, the following benefits from energy efficiency projects completed after July 28, 1991, shall be apportioned as specified:

(a) As to conservation, state agencies may retain all net savings in the form of reduced energy costs, and one-half of all net revenues from any transaction with a utility, the Bonneville power administration, or other entity. The net savings shall be retained by the local administrative body responsible for the public facility;

(b) As to cogeneration projects, state agencies may retain one-half of all net savings in the form of reduced energy costs and twenty percent of all net revenues generated by the project from any source except that state institutions of higher education may retain one-half of all net revenues generated by the project; and

(c) The remaining net revenues from conservation projects, and remaining net savings and revenues from cogeneration projects, shall be remitted to the state for the disposition and uses specified in subsection (4) of this section.

(3) Each state agency's share of net savings from cogeneration projects and of all net revenues shall be credited to a special local account created under RCW 28A.300.210, the use of which shall be limited, in priority order, to ongoing operation, maintenance, and improvements of energy systems and energy efficiency measures, to other ongoing and deferred maintenance, and to other infrastructure improvements at the facility that was the site of the energy efficiency project.

(4) The state's share of net savings from cogeneration projects and of all net revenues, and any portion of the state agency's share which exceeds its needs for the purposes specified in subsection (3) of this section, shall be deposited in the energy efficiency services account established by RCW 39.35C.110.

(5) The use by state agencies of net savings and net revenues from energy efficiency projects shall be in addition to, and shall not supplant or replace, funding from traditional sources for their normal operations and maintenance or capital budgets. It is the intent of this subsection to ensure that such institutions receive the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

(6) Energy efficiency projects in school districts, funded in whole or in part with state assistance provided under chapter 28A.525 RCW, or with the financing mechanisms authorized by this chapter, shall be subject to the provisions of this section governing the apportionment and use of savings and revenues from energy efficiency projects.

(7) For purposes of this section, "net" savings and revenues shall mean savings and revenues remaining after payment of project capital costs, including debt service, and other payments and reserves as required by a bond resolution or loan agreement under this chapter, and payment of project operating and maintenance expenses. The energy office shall develop guidelines and procedures for determining net savings and net revenues for energy efficiency projects at public facilities by April 1, 1992.

(8) The energy office shall report annually until the year 2006 to the director of the office of financial management and the chairs of the senate ways and means committee and the appropriate house of representatives fiscal committees a full and complete financial accounting for energy efficiency projects undertaken pursuant to chapter 201, Laws of 1991, including but not limited to a description of the project, its location and sponsoring agency or school district, date of completion or, if not completed, status of construction, the amount of investment in and expenditures on the project, the amount of revenues received from the project and estimated savings, if any, during the past year, estimated revenues, expenditures, and investments for the ensuing five years, the useful life originally estimated for the project, and the useful life of the project estimated to remain as of the date of the report, and the amount of savings and revenues from energy conservation and cogeneration retained by individual state agencies. [1991 c 201 § 13.]

**39.35C.130 Adoption of rules.** The energy office may adopt rules to implement RCW 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, 39.35C.120, and 39.35.050. [1991 c 201 § 17.]

**39.35C.900 Captions not law—1991 c 201.** Captions as used in chapter 201, Laws of 1991 constitute no part of the law. [1991 c 201 § 22.]

**39.35C.901 Severability—1991 c 201.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 201 § 24.]

**Chapter 39.44**

**BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.**

Sections

39.44.200	State and local government bond information—Definitions.
39.44.210	State and local government bond information—Submittal—Contents—Annual report.

**39.44.200 State and local government bond information—Definitions.** Unless the context clearly requires

otherwise, the definitions in this section apply throughout RCW 39.44.200 through 39.44.240.

(1) "Bond" means "bond" as defined in RCW 39.46.020, but also includes any other indebtedness that may be issued by any local government to fund private activities or purposes where the indebtedness is of a nonrecourse nature payable from private sources.

(2) "Local government" means "local government" as defined in RCW 39.46.020.

(3) "Type of bond" includes: (a) General obligation bonds, including councilmanic and voter-approved bonds; (b) revenue bonds; (c) local improvement district bonds; (d) special assessment bonds such as those issued by irrigation districts and diking districts; and (e) other classes of bonds.

(4) "State" means "state" as defined in RCW 39.46.020 but also includes any commissions or other entities of the state. [1990 c 220 § 1; 1989 c 225 § 1; 1987 c 297 § 12; 1985 c 130 § 5.]

**Severability—1987 c 297:** See RCW 39.86.906.

**39.44.210 State and local government bond information—Submittal—Contents—Annual report.** For each state or local government bond issued, the underwriter of the issue shall supply the department of community development with information on the bond issue within twenty days of its issuance. In cases where the issuer of the bond makes a direct or private sale to a purchaser without benefit of an underwriter, the issuer shall supply the required information. The bond issue information shall be provided on a form prescribed by the department of community development and shall include but is not limited to: (1) The par value of the bond issue; (2) the effective interest rates; (3) a schedule of maturities; (4) the purposes of the bond issue; (5) cost of issuance information; and (6) the type of bonds that are issued. A copy of the bond covenants shall be supplied with this information.

For each state or local government bond issued, the issuer's bond counsel promptly shall provide to the underwriter or to the department of community development information on the amount of any fees charged for services rendered with regard to the bond issue.

Each local government that issues any type of bond shall make a report annually to the department of community development that includes a summary of all the outstanding bonds of the local government as of the first day of January in that year. Such report shall distinguish the outstanding bond issues on the basis of the type of bond, as defined in RCW 39.44.200, and shall report the local government's outstanding indebtedness compared to any applicable limitations on indebtedness, including RCW 35.42.200, 39.30.010, and 39.36.020. [1990 c 220 § 2; 1989 c 225 § 2; 1985 c 130 § 1.]

*Fiscal agencies: Chapter 43.80 RCW.*

*Publication of local government bond information by department of community development—Adoption of rules: RCW 43.63A.155.*

Chapter 39.58

**PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES**

Sections  
39.58.080 Deposit of public funds in qualified public depository required—Deposits in institutions located outside the state. (Effective January 1, 1992.)

**39.58.080 Deposit of public funds in qualified public depository required—Deposits in institutions located outside the state. (Effective January 1, 1992.)** Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, and funds deposited pursuant to a local government multi-state joint self-insurance program as provided in RCW 48.62.081, no public funds shall be deposited in demand or investment deposits except in a qualified public depository located in this state or as otherwise expressly permitted by statute: PROVIDED, That the commission, upon good cause shown, may authorize a treasurer to maintain a demand deposit account with a banking institution located outside the state of Washington solely for the purpose of transmitting money received to financial institutions in the state of Washington for deposit for such time and upon such terms and conditions as the commission deems appropriate. [1991 1st sp.s. c 30 § 27; 1986 c 160 § 1; 1984 c 177 § 14; 1983 c 66 § 11; 1969 ex.s. c 193 § 8.]

**Effective date, implementation, application—Severability—1991 1st sp.s. c 30:** See RCW 48.62.900 and 48.62.901.  
**Severability—1983 c 66:** See note following RCW 39.58.010.

Chapter 39.86

**PRIVATE ACTIVITY BOND ALLOCATION**

Sections  
39.86.120 Initial allocation.

**39.86.120 Initial allocation.** (1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

Bond Use Category	1987 1988		1989 and thereafter (If the small issue category is permitted under federal law)	1990 and thereafter (If the small issue category is not permitted under federal law)
	Housing	5%	25%	25%
Student Loans	10%	15%	15%	15%
Exempt Facility	40%	20%	20%	35%
Public Utility	10%	10%	10%	10%
Small Issue	30%	25%	25%	0%
Remainder and redevelopment	5%	5%	5%	5%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130.

(5)(a) Prior to September 1 of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning September 1 of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130. [1990 c 50 § 1; 1987 c 297 § 3.]

Chapter 39.94

**FINANCING CONTRACTS**

Sections  
39.94.020 Definitions.

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

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property shall secure performance of the state or transfer to the state by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value. Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "State" means the state, agency, department, or instrumentality of the state, the \*state board for community college education, and any state institution of higher education.

(5) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(6) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers. [1990 c 47 § 3; 1989 c 356 § 2.]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Title 40**

**PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS**

**Chapters**

- 40.04 Public documents.**
- 40.14 Preservation and destruction of public records.**
- 40.24 Address confidentiality for victims of domestic violence.**

**Chapter 40.04**

**PUBLIC DOCUMENTS**

**Sections**

- 40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of law librarian.

**40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of law librarian.** The supreme court reports and the court of appeals reports shall be distributed by the state law librarian as follows:

(1) Each supreme court justice and court of appeals judge is entitled to receive one copy of each volume containing an opinion signed by him or her.

(2) The state law librarian shall retain such copies as are necessary of each for the benefit of the state law library, the supreme court and its subsidiary offices; and the court of appeals and its subsidiary offices; he or she shall provide one copy each for the official use of the attorney general and for each assistant attorney general maintaining his or her office in the attorney general's suite; three copies for the office of prosecuting attorney, in each county with a population of two hundred ten thousand or more; two copies for such office in each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand, and one copy for each other prosecuting attorney; one for each United States district court room and every superior court room in this state if regularly used by a judge of such courts; one copy for the use of each state department maintaining a separate office at the state capitol; one copy to the office of financial management, and one copy to the division of inheritance tax and escheats; one copy each to the United States supreme

court, to the United States district attorney's offices at Seattle and Spokane, to the office of the United States attorney general, the library of the circuit court of appeals of the ninth circuit, the Seattle public library, the Tacoma public library, the Spokane public library, the University of Washington library, and the Washington State University library; three copies to the Library of Congress; and, for educational purposes, twelve copies to the University of Washington law library, two copies to the University of Puget Sound law library, and two copies to the Gonzaga University law school library and to such other accredited law school libraries as are hereafter established in this state; six copies to the King county law library; and one copy to each county law library organized pursuant to law in each county with a population of forty thousand or more.

(3) The state law librarian is likewise authorized to exchange copies of the supreme court reports and the court of appeals reports for similar reports of other states, territories, and/or governments, or for other legal materials, and to make such other and further distribution as in his or her judgment seems proper. [1991 c 363 § 113; 1979 c 151 § 49; 1973 c 33 § 3; 1971 c 42 § 3; 1941 c 150 § 6; Rem. Supp. 1941 § 8217-6.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

*Commission to supervise publication of supreme court reports:* RCW 2.32.160.

*Publication of supreme court reports by public printer:* RCW 43.78.070.

**Chapter 40.14**

**PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS**

**Sections**

- 40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.
- 40.14.025 Division of archives and records management—Schedule of fees and charges—Archives and records management account.

**40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.** All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;

(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work; and

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter. [1991 c 237 § 4; 1991 c 184 § 1; 1986 c 275 § 1; 1983 c 84 § 1; 1981 c 115 § 1; 1957 c 246 § 2.]

**Reviser's note:** This section was amended by 1991 c 184 § 1 and by 1991 c 237 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1991 c 237:** See note following RCW 43.07.220.

**Effective date—1981 c 115:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 115 § 10.]

**40.14.025 Division of archives and records management—Schedule of fees and charges—Archives and records management account.** The secretary of state and

the director of financial management shall jointly establish a schedule of fees and charges governing the services provided by the division of archives and records management to other state agencies, offices, departments, and other entities. The schedule shall be determined such that the fees and charges will provide the division with funds to meet its anticipated expenditures during any allotment period.

There is created the archives and records management account in the state treasury which shall consist of all fees and charges collected under this section. The account shall be appropriated exclusively for use by the secretary of state for the payment of costs and expenses incurred in the operation of the division of archives and records management. [1991 1st sp.s. c 13 § 5; 1985 c 57 § 22; 1981 c 115 § 4.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1985 c 57:** See note following RCW 15.52.320.

**Effective date—1981 c 115:** See note following RCW 40.14.020.

## Chapter 40.24

### ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE

#### Sections

40.24.010	Findings—Purpose.
40.24.020	Definitions.
40.24.030	Address confidentiality program—Application—Certification.
40.24.040	Certification cancellation.
40.24.050	Agency use of designated address.
40.24.060	Voting by program participant—Use of designated address by county auditor.
40.24.070	Disclosure of address prohibited—Exceptions.
40.24.080	Assistance for program applicants.
40.24.090	Adoption of rules.
40.24.900	Effective dates—1991 c 23.

**40.24.010 Findings—Purpose.** The legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. [1991 c 23 § 1.]

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

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means a person certified as a program participant under RCW 40.24.030.

(3) "Domestic violence" means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers. [1991 c 23 § 2.]

**40.24.030 Address confidentiality program—Application—Certification.** (1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence; and (ii) that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence;

(e) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under RCW 40.16.030 or other applicable statutes. [1991 c 23 § 3.]

**40.24.040 Certification cancellation.** (1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven days' prior notice of the change of address.

(3) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(4) The secretary of state shall cancel certification of a program participant who applies using false information. [1991 c 23 § 4.]

**40.24.050 Agency use of designated address.** (1) A program participant may request that state and local agencies use the address designated by the secretary of state as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and

(b) This address will be used only for those statutory and administrative purposes.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first class mail to the appropriate program participants. [1991 c 23 § 5.]

**40.24.060 Voting by program participant—Use of designated address by county auditor.** (1) A program participant who is otherwise qualified to vote may apply as a service voter under RCW 29.01.155. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as absentee voters who qualify under RCW 29.36.013, except that the program participant shall not be required to reapply following January 1st of each odd-numbered year. The county auditor shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as a service voter. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(2) The county auditor may not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; and

(b) If directed by a court order, to a person identified in the order. [1991 c 23 § 6.]

**40.24.070 Disclosure of address prohibited—Exceptions.** The secretary of state may not make a program

participant's address, other than the address designated by the secretary of state, available for inspection or copying, except under the following circumstances:

- (1) If requested by a law enforcement agency, to the law enforcement agency;
- (2) If directed by a court order, to a person identified in the order; and
- (3) If certification has been canceled. [1991 c 23 § 7.]

**40.24.080 Assistance for program applicants.** The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice. [1991 c 23 § 8.]

**40.24.090 Adoption of rules.** The secretary of state may adopt rules to facilitate the administration of this chapter by state and local agencies. [1991 c 23 § 9.]

**40.24.900 Effective dates—1991 c 23.** (1) Sections 10 and 11 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 22, 1991].

(2) Sections 1 through 9 and 12 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 23 § 16.]

## Title 41

### PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

#### Chapters

- 41.04 General provisions.
- 41.05 State health care authority.
- 41.06 State civil service law.
- 41.14 Civil service for sheriff's office.
- 41.24 Volunteer fire fighters' relief and pensions.
- 41.26 Law enforcement officers' and fire fighters' retirement system.
- 41.28 Retirement of personnel in certain first class cities.
- 41.32 Teachers' retirement.
- 41.40 Washington public employees' retirement system.
- 41.45 Actuarial funding of state retirement systems.
- 41.48 Federal social security for public employees.
- 41.50 Department of retirement systems.
- 41.54 Portability of public retirement benefits.
- 41.56 Public employees' collective bargaining.
- 41.59 Educational employment relations act.
- 41.60 State employees' suggestion awards and incentive pay.

## Chapter 41.04

### GENERAL PROVISIONS

Sections	
41.04.005	"Veteran" defined for certain purposes.
41.04.065	Repealed.
41.04.180	Hospitalization and medical aid for county, municipal and other political subdivision employees—Governmental contributions authorized. (Effective January 1, 1992.)
41.04.205	Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure.
41.04.255	Individual retirement account plans authorized—Administration of medical benefits plan.
41.04.260	Committee for deferred compensation—Generally.
41.04.340	State employee attendance incentive program—Sick leave records to be kept—Remuneration or benefits for unused sick leave.
41.04.445	Members' retirement contributions—Pick up by employer—Implementation.
41.04.655	Leave sharing program—Definitions.
41.04.660	Leave sharing program—Created.
41.04.665	Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies.
41.04.670	Leave sharing program—Adoption of rules.
41.04.700	Employee assistance program—Intent.
41.04.710	Employee assistance program—Created.
41.04.720	Employee assistance program—*Director of human resources—Duties.
41.04.730	Employee assistance program—Information confidential—Exceptions.
41.04.802	Chapter not applicable to employees of Seattle Vocational Institute.

**41.04.005 "Veteran" defined for certain purposes.** As used in RCW 41.04.005, 41.04.010, 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he or she seeks the benefits of RCW 28B.40.361, 41.04.005, 41.04.010, 41.16.220, 41.20.050, 41.40.170, 73.04.110, or 73.08.080 has received an honorable discharge or received a discharge for physical reasons with an honorable record and who meets at least one of the following two criteria:

(1) The person has served between World War I and World War II or during any period of war as either (a) a member in any branch of the armed forces of the United States, (b) a member of the women's air forces service pilots, or (c) a U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, during the period of armed conflict, December 7, 1941, to August 15, 1945, or a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service during the period of armed conflict[,] December 7, 1941, to August 15, 1945; or

(2) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service (a) in any branch of the armed forces of the United States; or (b) as a member of the women's air forces service pilots.

A "period of war" includes World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress. The "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975. [1991 c 240 § 1; 1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

**Effective date**—1983 c 230: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 230 § 3.]

**Effective date**—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

**41.04.065 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees—Governmental contributions authorized.** (Effective January 1, 1992.) Any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body may, whenever funds shall be available for that purpose provide for all or a part of hospitalization and medical aid for its employees and their dependents through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW or self-insurers as provided for in chapter 48.62 RCW, for group hospitalization and medical aid policies or plans: PROVIDED, That any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body shall provide the employees thereof a choice of policies or plans through contracts with not less than two regularly constituted insurance carriers or health care service contractors or other health care plans, including but not limited to, trusts of self-insurance as provided for in chapter 48.62 RCW: AND PROVIDED FURTHER, That any county may provide such hospitalization and medical aid to county elected officials and their dependents on the same basis as such hospitalization and medical aid is provided to other county employees and their dependents: PROVIDED FURTHER, That provision for school district personnel shall not be made under this section but shall be as provided for in RCW 28A.400.350. [1991 1st sp.s. c 30 § 18; 1974 ex.s. c 82 § 1; 1973 1st ex.s. c 147 § 6; 1970 ex.s. c 39 § 10; 1969 ex.s. c 237 § 1; 1967 c 135 § 1; 1965 c 57 § 1; 1963 c 75 § 1.]

**Effective date, implementation, application**—Severability—1991 1st sp.s. c 30: See RCW 48.62.900 and 48.62.901.

**Effective date**—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

**Severability**—1970 ex.s. c 39: See note following RCW 41.05.050.

**Effective date**—1969 ex.s. c 237: "The effective date of this 1969 amendatory act shall be July 1, 1969: Provided, That health benefit contracts awarded under the provisions of RCW 41.04.180 which expire after July 1, 1969 may be extended up to one year with the approval of the state employees' insurance and health care advisory

committee as established under the provisions of section 8 of this act." [1969 ex.s. c 237 § 10.] For codification of 1969 ex.s. c 237, see Codification Tables, Volume 0.

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

*State health care authority:* Chapter 41.05 RCW.

**41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure.** (1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made: PROVIDED, That this section shall have no application to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW: PROVIDED FURTHER, That in the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

(a) Establish the conditions under which the transfer may be made, which shall include the requirements that:

(i) All the eligible employees of the political subdivision transfer as a unit, and

(ii) The political subdivision involved obligate itself to make employer contributions in an amount at least equal to those provided by the state as employer; and

(b) Hold public hearings on the application for transfer; and

(c) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for. [1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

**Implementation**—Effective dates—1988 c 107: See RCW 41.05.901.

**41.04.255 Individual retirement account plans authorized—Administration of medical benefits plan.** In addition to its other powers prescribed under this chapter, the committee for deferred compensation is authorized to offer to state employees one or more individual retirement account plans established under applicable state or federal law. The committee for deferred compensation is also authorized to administer the medical benefits plan identified in RCW 41.04.340. [1991 c 249 § 2; 1982 c 107 § 2.]

**41.04.260 Committee for deferred compensation—**

**Generally.** (1) There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who possesses expertise in the area of insurance or investment of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The committee shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The deferred compensation principal account is hereby created in the state treasury. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be eliminated by transferring moneys to that account from the deferred compensation principal account.

The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.04.250. All eligible state employees shall be given the opportunity to participate in agreements entered into by the committee under RCW 41.04.250. State agencies shall cooperate with the committee in providing employees with the opportunity to participate. Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the committee under RCW 41.04.250, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein. All moneys in the deferred compensation principal account, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(3) The state investment board, at the request of the deferred compensation committee, is authorized to invest moneys in the deferred compensation principal account

in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(4) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the committee including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the deferred compensation principal account.

(5) In addition to the duties specified in this section and RCW 41.04.250, the deferred compensation committee shall administer the salary reduction plan established in RCW 41.04.600 through 41.04.645.

(6) The deferred compensation committee shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.04.250 through 41.04.260.

The deferred compensation committee shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under the committee's jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(7) Members of the deferred compensation committee shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.04.250 through 41.04.260 and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(8) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260. [1991 1st sp.s. c 13 § 101. Prior: 1987 c 475 § 11; 1987 c 121 § 1; 1985 c 57 § 23; 1984 c 242 § 1; 1983 c 226 § 1; 1981 c 256 § 3; 1975-'76 2nd ex.s. c 34 § 84; 1975 1st ex.s. c 274 § 1.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Severability—1987 c 475:** See note following RCW 41.04.600.

**Effective date—1985 c 57:** See note following RCW 18.04.105.

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**41.04.340 State employee attendance incentive program—Sick leave records to be kept—Remuneration or benefits for unused sick leave.** (1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee"

means any employee of the state, other than teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Pursuant to this subsection, in lieu of cash remuneration the state may, with equivalent funds, provide eligible employees with a benefit plan providing for reimbursement of medical expenses. The committee for deferred compensation shall develop any benefit plan established under this subsection, but may offer and administer the plan only if (a) each eligible employee has the option of whether to receive cash remuneration or to have his or her employer transfer equivalent funds to the plan; and (b) the committee has received an opinion from the United States internal revenue service stating that participating employees, prior to the time of receiving reimbursement for expenses, will incur no United States income tax liability on the amount of the equivalent funds transferred to the plan.

(5) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(6) With the exception of \*subsection (3) of this section, this section shall be administered, and rules shall be promulgated to carry out its purposes, by the state personnel board and the higher education personnel board for persons subject to chapters 41.06 and 28B.16 RCW, respectively, and by their respective personnel authorities for other eligible employees: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(7) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1991 c 249 § 1; 1990 c 162 § 1; 1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

**\*Reviser's note:** The reference to "subsection (3) of this section" appears to be erroneous. "Subsection (4) of this section" was apparently intended.

**Severability—1980 c 182:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 182 § 7.]

**41.04.445 Members' retirement contributions—**  
**Pick up by employer—Implementation.** (1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by \*RCW 41.32.010(37);

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) RCW 2.14.090;

(d) \*\*RCW 41.32.260(2);

(e) RCW 41.32.350;

(f) RCW 41.32.775;

(g) RCW 41.40.330 (1) and (3);

(h) RCW 41.40.650; and

(i) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems. [1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

**Reviser's note:** \*(1) RCW 41.32.010 was amended by 1991 c 35 § 31 and 1991 c 343 § 3. The previous subsection (37) is now subsection (38).

\*\* (2) Subsection (2) of RCW 41.32.260 was deleted by 1991 c 35 § 40.

**Findings—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**Purpose—Application—1985 c 13:** "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

**Retrospective application—1985 c 13:** "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

**Effective date—Conflict with federal requirements—Severability—1984 c 227:** See notes following RCW 41.04.440.

#### **41.04.655 Leave sharing program—Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(2) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(3) "Program" means the leave sharing program established in RCW 41.04.660. [1990 c 33 § 569; 1989 c 93 § 2.]

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1989 c 93:** See note following RCW 41.04.650.

**41.04.660 Leave sharing program—Created.** The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual or sick leave, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. [1990 c 23 § 1; 1989 c 93 § 3.]

**Severability—1989 c 93:** See note following RCW 41.04.650.

**41.04.665 Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies.** (1) An agency head may permit an employee to receive leave under this section if:

(a) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

- (i) Go on leave without pay status; or
- (ii) Terminate state employment;

(b) The employee's absence and the use of shared leave are justified;

(c) The employee has depleted or will shortly deplete his or her annual leave and sick leave reserves;

(d) The employee has abided by agency rules regarding sick leave use; and

(e) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave.

(3) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days.

(4) An employee of a community college, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than sixty days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer of more than six days of sick leave during any twelve month period, or request a transfer that would result in his or her sick leave account going below sixty days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the annual leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis. [1990 c 23 § 2; 1989 c 93 § 4.]

**Severability**—1989 c 93: See note following RCW 41.04.650.

**41.04.670 Leave sharing program—Adoption of rules.** The state personnel board, the higher education personnel board, and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review. [1990 c 23 § 3; 1989 c 93 § 5.]

**Temporary policies**—1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [1989 c 93 § 7.]

**Severability**—1989 c 93: See note following RCW 41.04.650.

**41.04.700 Employee assistance program—Intent.** The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive work force, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of RCW 41.04.710 through 41.04.730 to assist state employees by establishing a state employee assistance program. [1990 c 60 § 301.]

**Severability**—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

**41.04.710 Employee assistance program—Created.** The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the work place. The goal of the program is to help promote a safe, productive, and healthy state work force by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner. [1990 c 60 § 302.]

**Severability**—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

**41.04.720 Employee assistance program—\*Director of human resources—Duties.** The \*director of human resources shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out

the purposes of RCW 41.04.700 through 41.04.730. [1990 c 60 § 303.]

**\*Reviser's note:** The reference to the "director of human resources" is erroneous. In the final version of House Bill No. 2567, all other references were changed to the "director of personnel."

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**41.04.730 Employee assistance program—Information confidential—Exceptions.** Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

- (1) Whether or not the referred employee made an appointment;
- (2) The date and time the employee arrived and departed;
- (3) Whether the employee agreed to follow the advice of counselors; and
- (4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights. [1990 c 60 § 304.]

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**41.04.802 Chapter not applicable to employees of Seattle Vocational Institute.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 106.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

## Chapter 41.05

### STATE HEALTH CARE AUTHORITY

(Formerly: State employees' insurance and health care)

#### Sections

41.05.011	Definitions.
41.05.021	State health care authority—Duties—Administrator.
41.05.026	Contracts—Proprietary data, trade secrets, actuarial formulas, statistics, cost and utilization data—Exemption from public inspection—Executive sessions.
41.05.031	Agencies to establish health care information systems.
41.05.090	Continuation of coverage of employee, spouse, or covered dependent ineligible under state plan—Exceptions.
41.05.112	Chapter not applicable to employees of Seattle Vocational Institute.
41.05.120	State employees' insurance account.

**41.05.011 Definitions.** Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurance carrier as defined in chapter 48.21 or 48.22 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205, and employees of a school district if the board of directors of the school district seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the state employees' benefits board established under RCW 41.05.055. [1990 c 222 § 2; 1988 c 107 § 3.]

**41.05.021 State health care authority—Duties—Administrator.** The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The primary duties of the authority shall be to administer state employees' insurance benefits and to study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care.

The authority's duties include, but are not limited to, the following:

(1) To administer a health care benefit program for employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(2) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(a) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(b) Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods;

(c) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(d) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(e) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(3) To analyze areas of public and private health care interaction;

(4) To provide information and technical and administrative assistance to the board;

(5) To review and approve or deny applications from counties, municipalities, other political subdivisions of the state, and school districts to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205 and 28A.400.350, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(6) To appoint a health care policy technical advisory committee as required by RCW 41.05.150; and

(7) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160. [1990 c 222 § 3; 1988 c 107 § 4.]

**41.05.026 Contracts—Proprietary data, trade secrets, actuarial formulas, statistics, cost and utilization data—Exemption from public inspection—Executive sessions.** (1) When soliciting proposals for the purpose of awarding contracts for goods or services, the administrator shall, upon written request by the bidder, exempt from public inspection and copying such proprietary data, trade secrets, or other information contained in the bidder's proposal that relate to the bidder's unique methods of conducting business or of determining prices or premium rates to be charged for services under terms of the proposal.

(2) Actuarial formulas, statistics, cost and utilization data, or other proprietary information submitted upon request of the administrator or board by a contracting insurer, health care service contractor, health maintenance organization, or vendor may be withheld at any time from public inspection when necessary to preserve trade secrets or prevent unfair competition.

(3) The board may hold an executive session during any regular or special meeting to discuss information submitted in accordance with subsection (1) or (2) of this section. [1991 c 79 § 1; 1990 c 222 § 6.]

**41.05.031 Agencies to establish health care information systems.** The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, and the superintendent of public instruction.

The authority, in conjunction with these agencies, shall determine:

(1) Definitions of health care services;

(2) Health care data elements common to all agencies;

(3) Health care data elements unique to each agency; and

(4) A mechanism for program and budget review of health care data. [1990 c 222 § 4; 1988 c 107 § 5.]

**41.05.090 Continuation of coverage of employee, spouse, or covered dependent ineligible under state plan—Exceptions.** (1) When an employee, spouse, or covered dependent becomes ineligible under the state plan and wishes to continue coverage on an individual basis with the same provider under the state plan, such employee, spouse, or covered dependent shall be entitled to immediately transfer and shall not be required to undergo any waiting period before obtaining individual coverage.

(2) Entitlement to a conversion contract under the terms of this section shall not apply to any employee, spouse, or covered dependent who is:

(a) Eligible for federal medicare coverage; or

(b) Covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) Entitlement to conversion under the terms of this section shall not apply to any employee terminated for misconduct, except that conversion shall be offered to the spouse and covered dependents of the terminated employee. [1990 c 222 § 5; 1979 c 125 § 3.]

**41.05.112 Chapter not applicable to employees of Seattle Vocational Institute.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 105.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**41.05.120 State employees' insurance account.** (1) The state employees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of contributions, reserves, dividends, and refunds, and for payment of premiums for employee insurance benefit contracts. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(2) The state treasurer and the state investment board may invest moneys in the state employees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the state employees' insurance account. [1991 1st sp.s. c 13 § 100; 1988 c 107 § 10.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

## Chapter 41.06

### STATE CIVIL SERVICE LAW

#### Sections

41.06.070	Exemptions—Right of reversion to civil service status—Exception.
41.06.0701	Seattle Vocational Institute—Employees exempted from chapter.
41.06.084	Department of agriculture—Certain personnel exempted from chapter.
41.06.087	Economic and revenue forecast supervisor and staff exempted from chapter.
41.06.093	Washington state patrol—Certain personnel exempted from this chapter.
41.06.150	Rules of board—Mandatory subjects—Veterans' preference—Affirmative action.
41.06.167	Compensation surveys required for officers and officer candidates of the Washington state patrol—Comprehensive compensation survey plan and recommendations of chief required.
41.06.300	Decodified.
41.06.320	Decodified.
41.06.330	Decodified.
41.06.430	Career executive program—Development—Policies and standards—Duties of board and director.
41.06.490	State employee return-to-work program.

**41.06.070 Exemptions—Right of reversion to civil service status—Exception.** The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the \*state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full-time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(23) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(24) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(25) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(26) All employees of the marine employees' commission;

(27) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection shall expire on June 30, 1997;

(28) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty-seven for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted

under subsections (24), (25), and (28) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (22) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

**\*Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**Severability—1990 c 60:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 60 § 403.]

**Subheadings not law—1990 c 60:** "Subheadings as used in this act do not constitute any part of the law." [1990 c 60 § 401.]

**Findings—1989 c 96:** See note following RCW 27.26.010.

**Severability—1989 c 96:** See RCW 27.26.900.

**Severability—1987 c 389:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 389 § 8.]

**Effective date—1987 c 389:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 389 § 9.]

**Savings—Severability—1984 c 210:** See notes following RCW 67.40.020.

**Severability—1983 c 15:** See RCW 47.64.910.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Effective date—Severability—1969 ex.s. c 36:** See RCW 28B.16.920 and 28B.16.930.

**Severability—1967 ex.s. c 8:** See RCW 28B.50.910.

*County road administration board:* RCW 36.78.060.

*State agencies and departments—Certain personnel exempted from chapter*

*basic health plan:* RCW 70.47.040.

board of examiners for nursing home administrators: RCW 18.52.060.  
 board of health: RCW 43.20.030.  
 center for voluntary action: RCW 43.150.040.  
 Columbia river gorge commission: RCW 43.97.015.  
 commission on judicial conduct: RCW 2.64.050.  
 council for the prevention of child abuse and neglect: RCW 43.121.040.  
 department of  
 agriculture: RCW 41.06.084.  
 corrections: RCW 41.06.071.  
 ecology: RCW 41.06.073, 43.21A.100.  
 general administration, supervisor of motor transport: RCW 43.19.585.  
 health: RCW 43.70.020.  
 information services: RCW 41.06.094.  
 retirement systems: RCW 41.50.070.  
 services for the blind: RCW 74.18.050.  
 social and health services: RCW 41.06.076, 43.20A.090.  
 trade and economic development: RCW 41.06.089.  
 transportation: RCW 41.06.079, 47.01.081.  
 veterans affairs: RCW 41.06.077.  
 economic and revenue forecast supervisor and staff: RCW 41.06.087.  
 energy office: RCW 41.06.081, 43.21F.035.  
 gambling commission: RCW 9.46.080.  
 law revision commission: RCW 41.06.083.  
 medical disciplinary board: RCW 18.72.155.  
 office of  
 administrative hearings: RCW 34.12.030.  
 financial management: RCW 41.06.075, 43.41.080.  
 minority and women's business enterprises: RCW 39.19.030.  
 personnel appeals board: RCW 41.64.050.  
 state actuary: RCW 44.44.030.  
 state convention and trade center: RCW 67.40.020.  
 state internship program: RCW 28B.16.041, 41.06.088.  
 state investment board: RCW 43.33A.100.  
 state lottery commission: RCW 67.70.050.  
 state school directors' association: RCW 41.06.086.  
 state treasurer: RCW 43.08.120.  
 state veterinarian: RCW 41.06.084.  
 superintendent of public instruction: RCW 28A.300.020.  
 vocational technology center: RCW 28C.15.020.  
 Washington conservation corps: RCW 43.220.070.  
 Washington service corps: RCW 50.65.110.  
 Washington state patrol, drug control assistance unit: RCW 43.43.640.  
 world fair commission: RCW 41.06.085.  
 youth development and conservation corps: RCW 43.51.550.

**41.06.0701 Seattle Vocational Institute—Employees exempted from chapter.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 104.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**41.06.084 Department of agriculture—Certain personnel exempted from chapter.** In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of agriculture to the director, the director's confidential secretary, the deputy director, not more than eight assistant directors, and the state veterinarian. [1990 c 37 § 2; 1983 c 248 § 11.]

**41.06.087 Economic and revenue forecast supervisor and staff exempted from chapter.** In addition to the exemptions set forth in RCW 41.06.070, this chapter does

not apply to the economic and revenue forecast supervisor and staff employed under RCW 82.33.010. [1990 c 229 § 3; 1984 c 138 § 2.]

**Effective date—1990 c 229:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1990." [1990 c 229 § 12.]

**41.06.093 Washington state patrol—Certain personnel exempted from this chapter.** In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the state personnel board. [1990 c 14 § 1.]

**41.06.150 Rules of board—Mandatory subjects—Veterans' preference—Affirmative action.** The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition

of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: **PROVIDED FURTHER**, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: **PROVIDED FURTHER**, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: **AND PROVIDED FURTHER**, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: **PROVIDED**, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: **PROVIDED, HOWEVER**, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: **PROVIDED FURTHER**, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: **PROVIDED**, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions under chapter 28B.16 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables. [1990 c 60 § 103. Prior: 1985 c 461 § 2; 1985 c 365 § 5; 1983 1st ex.s. c 75 § 5; 1982 1st ex.s. c 53 § 4; prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15 (Initiative Measure No. 207, approved November 8, 1960).]

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**Severability—1985 c 461:** See note following RCW 41.06.020.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Severability—1981 c 311:** See RCW 41.64.910.

**Severability—1980 c 118:** See note following RCW 41.06.010.

**Severability—1977 ex.s. c 152:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 152 § 14.]

**Effective date—1973 1st ex.s. c 75:** "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

*Leaves for public employees*  
*military: RCW 38.40.060.*  
*vacation: RCW 43.01.040.*

*Public employees' collective bargaining: Chapter 41.56 RCW.*

**41.06.167 Compensation surveys required for officers and officer candidates of the Washington state patrol—Comprehensive compensation survey plan and recommendations of chief required.** The department of personnel shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive compensation survey is not conducted, the department shall conduct a trend compensation survey. This survey shall measure average compensation movement which has occurred since the last comprehensive compensation survey was conducted. The results of each comprehensive and trend survey shall be completed and forwarded by September 30th, after review and preparation of recommendations by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative transportation committee and the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of medians, base ranges, and weighted averages of salaries. The surveys shall compare competitive labor markets of law enforcement officers. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06.080.

A comprehensive compensation survey plan and the recommendations of the chief of the Washington state

patrol shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the legislative transportation committee, the committee on ways and means of the senate, and the committee on appropriations of the house of representatives six months before the beginning of each periodic survey. [1991 c 196 § 1; 1986 c 158 § 7; 1985 c 94 § 3; 1980 c 11 § 2; 1979 c 151 § 60; 1977 ex.s. c 152 § 5.]

**Severability—1977 ex.s. c 152:** See note following RCW 41.06.150.

**41.06.300 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.06.320 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.06.330 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.06.430 Career executive program—Development—Policies and standards—Duties of board and director.** (1) The board, by rule, shall develop a career executive program which recognizes the profession of management and recognizes excellence in managerial skills in order to (a) identify, attract, and retain highly qualified executive candidates, (b) provide outstanding employees a broad opportunity for career development, and (c) provide for the mobility of such employees among agencies, it being to the advantage of the state to make the most beneficial use of individual managerial skills.

(2) To accomplish the purposes of subsection (1) of this section, the board, notwithstanding any other provision of this chapter, may provide policies and standards for recruitment, appointment, examination, training, probation, employment register control, certification, classification, salary administration, transfer, promotion, reemployment, conditions of employment, and separation separate from procedures established for other employment.

(3) The director, in consultation with affected agencies, shall recommend to the board the classified positions which may be filled by participants in the career executive program. Upon the request of an agency, management positions that are exempt from the state civil service law pursuant to RCW 41.06.070 may be included in all or any part of the career executive program: PROVIDED, That an agency may at any time, after providing written notice to the board, withdraw an exempt position from the career executive program. No employee may be placed in the career executive program without the employee's consent.

(4) The number of employees participating in the career executive program shall not exceed two percent of the employees subject to the provisions of this chapter.

(5) The director shall monitor and review the impact of the career executive program to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of the career executive program on the fulfillment of such responsibilities.

(6) Any classified state employee, upon entering a position in the career executive program, shall be entitled subsequently to revert to any class or position previously held with permanent status, or, if such position is not available, revert to a position similar in nature and salary to the position previously held. [1990 c 60 § 102; 1980 c 118 § 7.]

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

**Severability—1980 c 118:** See note following RCW 41.06.010.

#### **41.06.490 State employee return-to-work program.**

(1) In addition to the rules adopted under RCW 41.06.150, the board shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

(a) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work state-wide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

(d) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary. [1990 c 204 § 3.]

**Findings—Purpose—1990 c 204:** See note following RCW 51.44.170.

## **Chapter 41.14**

### **CIVIL SERVICE FOR SHERIFF'S OFFICE**

#### **Sections**

41.14.040	Combined system authorized in counties with populations of less than forty thousand.
41.14.065	Delegation of powers and duties of commission in county with a population of one million or more.
41.14.070	Classified and unclassified service designated—Procedures.
41.14.210	Funds for commission in counties with populations of two hundred ten thousand or more—County budget—Surplus.

**41.14.040 Combined system authorized in counties with populations of less than forty thousand.** Any counties with populations of less than forty thousand, whether contiguous or not, are authorized to establish and operate a combined civil service system to serve all counties so combined. The combination of any such counties shall be effective whenever each board of county commissioners of the counties involved adopts a resolution declaring intention to participate in the operation of a combined county civil service system in accordance with agreements made between any such counties. Any such combined county civil service commission shall serve the employees of each county sheriff's office impartially and according to need.

All matters affecting the combined civil service commission, including the selection of commissioners, shall be decided by majority vote of all the county commissioners of the counties involved.

All the provisions of this chapter shall apply equally to any such combined civil service system. [1991 c 363 § 114; 1959 c 1 § 4 (Initiative Measure No. 23, approved November 4, 1958).]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**41.14.065 Delegation of powers and duties of commission in county with a population of one million or more.** Any county with a population of one million or more may assign the powers and duties of the commission to such county agencies or departments as may be designated by charter or ordinance: PROVIDED, That the powers and duties of the commission under RCW 41.14.120 shall not be assigned to any other body but shall continue to be vested in the commission, which shall exist to perform such powers and duties, together with such other adjudicative functions as may be designated by charter or ordinance. [1991 c 363 § 115; 1987 c 251 § 2.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**41.14.070 Classified and unclassified service designated—Procedures.** The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the county sheriff in every county and an additional number of positions, designated the unclassified service, determined as follows:

Staff Personnel	Unclassified Position Appointments
1 through 10	2
11 through 20	3
21 through 50	4
51 through 100	5
101 and over	6

The unclassified position appointments authorized by this section must include selections from the following positions up to the limit of the number of positions authorized: Undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and administrative assistant or administrative secretary. The initial selection of specific positions to be exempt shall be made by the sheriff, who shall notify the civil service commission of his or her selection. Subsequent changes in the designation of which positions are to be exempt may be made only with the concurrence of the sheriff and the civil service commission, and then only after the civil service commission has heard the issue in open meeting. Should the position or positions initially selected by the sheriff to be exempt (unclassified) pursuant to this section be under the classified civil service at the time of such selection, and should it (or they) be occupied, the employee(s) occupying said position(s) shall have the right to return to the next highest position or a like position under classified civil service.

The county legislative authority of any county with a population of five hundred thousand or more operating under a home rule charter may designate unclassified positions of administrative responsibility not to exceed twelve positions. [1991 c 363 § 116; 1979 ex.s. c 153 § 3; 1975 1st ex.s. c 186 § 1; 1959 c 1 § 7 (Initiative Measure No. 23, approved November 4, 1958).]

~~Purpose~~—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**41.14.210 Funds for commission in counties with populations of two hundred ten thousand or more—County budget—Surplus.** The county legislative authority or [of] each county with a population of two hundred ten thousand or more may provide in the county budget for each fiscal year a sum equal to one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this chapter. The funds so provided shall be used for the support of the commission. Any part of the funds so provided and not expended for the support of the commission during the fiscal year shall be placed in the general fund of the county, or counties according to the ratio of contribution, on the first day of January following the close of such fiscal year. [1991 c 363 § 117; 1971 ex.s. c 214 § 3; 1959 c 1 § 21 (Initiative Measure No. 23, approved November 4, 1958).]

~~Purpose~~—Captions not law—1991 c 363: See notes following RCW 2.32.180.

**Chapter 41.24**

**VOLUNTEER FIRE FIGHTERS' RELIEF AND PENSIONS**

Sections	
41.24.030	Volunteer fire fighters' relief and pension fund created—Composition—Investment—Use—Treasurer's report.

**41.24.030 Volunteer fire fighters' relief and pension fund created—Composition—Investment—Use—Treasurer's report.** There is created in the state treasury a trust fund for the benefit of the fire fighters of the state covered by this chapter, which shall be designated the volunteer fire fighters' relief and pension fund and shall consist of:

- (1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.
- (2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:
  - (a) Ten dollars for each volunteer or part-paid member of its fire department;
  - (b) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.
  - (3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of thirty dollars for each of its fire fighters electing to enroll therein, ten dollars of which shall be paid by the municipality and twenty dollars of which shall be paid by the fire fighter.
  - (4) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the fund.
  - (5) The state investment board, upon request of the state treasurer shall have full power to invest or reinvest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.
  - (6) All bonds or other obligations purchased according to subsection (5) of this section shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund and invested by the state investment board shall be credited to and form a part of the fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

All amounts credited to the funds shall be available for making the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund. [1991 1st sp.s. c 13 § 98. Prior: 1989 c 194 s 1; 1989 c 91 § 1; 1986 c 296 § 4; 1982 1st ex.s. c 35 § 17; 1981 c 3 § 26; 1973 1st ex.s. c 170 § 1; 1970 ex.s. c 6 § 19; 1967 c 160 § 2; 1957 c 116 § 1; 1955 c 223 § 1; 1945 c 261 § 3; Rem. Supp. 1945 § 9578-17; prior: 1935 c 121 § 1; RRS § 9578-1.]

**Effective dates—Severability—1991 1st sp.s. c 13:** See notes following RCW 70.39.170.

**Effective date—1989 c 194 §§ 1, 2, and 3:** "Sections 1, 2, and 3 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 194 § 4.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**Severability—Effective date—1986 c 296:** See notes following RCW 48.14.020.

**Severability—Effective dates—1982 1st ex.s. c 35:** See notes following RCW 82.08.020.

**Effective dates—Severability—1981 c 3:** See notes following RCW 43.33A.010.

**Effective date—1973 1st ex.s. c 170:** "This 1973 amendatory act shall take effect on July 1, 1973." [1973 1st ex.s. c 170 § 5.]

*Insurance premium taxes: RCW 48.14.020.*

**Chapter 41.26**

**LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM**

Sections

**"PROVISIONS APPLICABLE TO PLAN I AND PLAN II"**

- 41.26.005 Provisions applicable to "plan I" and "plan II."
- 41.26.010 Short title.
- 41.26.020 Purpose of chapter.
- 41.26.030 Definitions.
- 41.26.035 "Minimum medical and health standards" defined.
- 41.26.040 System created—Membership—Funds.
- 41.26.043 Decodified.
- 41.26.045 Minimum medical and health standards.
- 41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures.
- 41.26.047 Minimum medical and health standards—Exemptions—Employer may adopt higher standards.
- 41.26.051 Decodified.
- 41.26.052 Notice for hearing required prior to petitioning for judicial review.
- 41.26.054 Hearing—Conduct.
- 41.26.056 No bond required on appeal to court.
- 41.26.058 Cause of action for injury or death, when.
- 41.26.060 Recodified as RCW 41.50.055.
- 41.26.062 Falsification—Penalty.
- 41.26.065 Repealed.
- 41.26.070 Repealed.

**"PLAN I"**

- 41.26.075 Provisions applicable to plan I.
- 41.26.080 Funding total liability of plan I system.
- 41.26.085 Repealed.
- 41.26.090 Retirement for service.
- 41.26.100 Allowance on retirement for service.
- 41.26.110 City and county disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties.
- 41.26.115 Director of retirement systems to adopt rules governing disability boards—Remand of orders not in accordance with rules.

- 41.26.120 Retirement for disability incurred in the line of duty.
- 41.26.125 Retirement for disability not incurred in the line of duty.
- 41.26.130 Allowance on retirement for disability.
- 41.26.135 Cessation of disability—Determination.
- 41.26.140 Reexaminations of disability beneficiaries—Reentry—Appeal.
- 41.26.150 Sickness or disability benefits—Medical services.
- 41.26.160 Death benefits.
- 41.26.162 Ex spouse qualifying as surviving spouse—When.
- 41.26.170 Refund of contributions on discontinuance of service—Reentry.
- 41.26.180 Exemption from judicial process, taxes—Exceptions—Deduction for insurance upon request.
- 41.26.190 Credit for military service.
- 41.26.200 Appeal to director of retirement systems.
- 41.26.210 Recodified as RCW 41.26.052.
- 41.26.220 Recodified as RCW 41.26.054.
- 41.26.230 Recodified as RCW 41.26.056.
- 41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index.
- 41.26.250 Increase in presently payable benefits for service or disability authorized.
- 41.26.260 Increase in certain presently payable death benefits authorized.
- 41.26.270 Declaration of policy respecting benefits for injury or death—Civil actions abolished.
- 41.26.280 Recodified as RCW 41.26.058.
- 41.26.300 Recodified as RCW 41.26.062.
- 41.26.310 Decodified.
- 41.26.320 Repealed.
- 41.26.330 Repealed.
- 41.26.3901 Severability—1969 ex.s. c 209.
- 41.26.3902 Act to control inconsistencies.
- 41.26.3903 Effective date—1969 ex.s. c 209.

**"PLAN II"**

- 41.26.400 Decodified.
- 41.26.405 Provisions applicable to plan II.
- 41.26.410 Sections applicable to plan II members.
- 41.26.420 Computation of the retirement allowance.
- 41.26.425 Lump sum retirement allowance—Reentry—Limitation.
- 41.26.430 Retirement for service.
- 41.26.440 Post-retirement cost-of-living.
- 41.26.450 Plan II employer, member, and state contributions.
- 41.26.460 Options for payment of retirement allowances.
- 41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient.
- 41.26.475 Decodified.
- 41.26.480 Industrial insurance.
- 41.26.490 Application for and effective date of retirement allowances.
- 41.26.500 Suspension of retirement allowance upon reemployment—Reinstatement.
- 41.26.510 Death benefits.
- 41.26.520 Service credit for authorized leave of absence.
- 41.26.530 Vested membership.
- 41.26.540 Refund of contributions on termination.
- 41.26.550 Reentry.
- 41.26.560 Decodified.
- 41.26.600 Repealed.
- 41.26.900 Recodified as RCW 41.26.3901.
- 41.26.901 Severability—1977 ex.s. c 294.
- 41.26.910 Recodified as RCW 41.26.3902.
- 41.26.920 Recodified as RCW 41.26.3903.
- 41.26.921 Effective date—1977 ex.s. c 294.

**Reviser's note:** Throughout chapter 41.26 RCW, the phrase "this act" has been changed to "this chapter." 1969 ex.s. c 209 consists of this chapter, RCW 41.16.145, 41.18.010, 41.18.040, 41.18.045, 41.18.060, 41.18.100, 41.18.102, 41.18.104, 41.18.130, 41.18.190, 41.20.005, 41.20.085, 41.20.170, 41.20.050 and 41.20.060.

*Emergency medical technician or first aid vehicle operator prohibited from joining system solely on basis of such service: RCW 41.24.050.*

**"PROVISIONS APPLICABLE TO PLAN I AND  
PLAN II"**

**41.26.005 Provisions applicable to "plan I" and "plan II."** The provisions of the following sections of this chapter shall apply to members of plan I and plan II: RCW 41.26.010; 41.26.020; 41.26.030; 41.26.035; 41.26.040; \*41.26.043; 41.26.045; 41.26.046; 41.26.047; \*\*41.26.210; \*\*41.26.220; \*\*41.26.230; \*\*41.26.280; and \*\*41.26.300. [1991 c 35 § 12; 1989 c 273 § 10; 1985 c 102 § 5; 1979 ex.s. c 249 § 1; 1977 ex.s. c 294 § 18.]

**Reviser's note:** \*(1) RCW 41.26.043 was decodified by 1991 c 35 § 4.

\*\*\*(2) RCW 41.26.210, 41.26.220, 41.26.230, 41.26.280, and 41.26.300 were recodified as RCW 41.26.052, 41.26.054, 41.26.056, 41.26.058, and 41.26.062 pursuant to 1991 c 35 § 8.

**Intent—1991 c 35:** "(1) The legislature intends to reorganize chapter 41.26 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington law enforcement officers' and fire fighters' retirement system plan I, the Washington law enforcement officers' and fire fighters' retirement system plan II, and those provisions relating to both plan I and plan II into three separate subchapters within chapter 41.26 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.26 RCW or other statutory provisions or rules adopted under those provisions.

(2) The legislature intends to reorganize chapter 41.32 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington teachers' retirement system plan I, the Washington teachers' retirement system plan II, and both plan I and plan II into three separate subchapters within chapter 41.32 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.32 RCW or other statutory provisions or rules adopted under those provisions.

(3) The legislature intends to reorganize chapter 41.40 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the public employees' retirement system plan I, the public employees' retirement system plan II, and both plan I and plan II into three separate subchapters within chapter 41.40 RCW; (b) decodify obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.40 RCW or other statutory provisions or rules adopted under those provisions.

(4) This act is technical in nature and shall not have the effect of terminating or in any way modifying any rights, proceedings, or liabilities, civil or criminal, which exist on July 28, 1991." [1991 c 35 § 1.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Purpose—Retrospective application—1985 c 102:** See notes following RCW 41.26.120.

**41.26.010 Short title.** This chapter shall be known and cited as the "Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act". [1969 ex.s. c 209 § 1.]

**41.26.020 Purpose of chapter.** The purpose of this chapter is to provide for an actuarial reserve system for

the payment of death, disability, and retirement benefits to law enforcement officers and fire fighters, and to beneficiaries of such employees, thereby enabling such employees to provide for themselves and their dependents in case of disability or death, and effecting a system of retirement from active duty. [1969 ex.s. c 209 § 2.]

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

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan I members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan II members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The

provisions of this subsection shall not apply to plan II members.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection shall not apply to plan II members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection shall not apply to plan II members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the

summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan I members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan II members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan I members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h),

and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That in any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan I members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more

employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan I members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan I members.

(20) "Disability retirement" for plan I members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan I members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Director" means the director of the department.

(26) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(27) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(28) "Plan I" means the law enforcement officers' and fire fighters' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan II" means the law enforcement officers' and fire fighters' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one. [1991 1st sp.s. c 12 § 1. Prior: (1991 1st sp.s. c 11 § 3 repealed by 1991 1st sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Purpose**—**Application**—**Retrospective application**—1985 c 13: See notes following RCW 41.04.445.

**Purpose**—**Severability**—1981 c 256: See notes following RCW 41.04.250.

**Severability**—1974 ex.s. c 120: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 120 § 15.]

**Severability**—1972 ex.s. c 131: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 131 § 12.]

**Purpose**—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

**Severability**—1971 ex.s. c 257: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 257 § 22.]

The above two annotations apply to 1971 ex.s. c 257. For codification of that act, see Codification Tables, Volume 0.

**41.26.035 "Minimum medical and health standards" defined.** The term "minimum medical and health standards" means minimum medical and health standards adopted by the department under this chapter. [1991 c 35 § 14; 1971 ex.s. c 257 § 2.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.040 System created—Membership—Funds.** The Washington law enforcement officers' and

fire fighters' retirement system is hereby created for fire fighters and law enforcement officers.

(1) Notwithstanding RCW 41.26.030(8), all fire fighters and law enforcement officers employed as such on or after March 1, 1970, on a full time fully compensated basis in this state shall be members of the retirement system established by this chapter with respect to all periods of service as such, to the exclusion of any pension system existing under any prior act.

(2) Any employee serving as a law enforcement officer or fire fighter on March 1, 1970, who is then making retirement contributions under any prior act shall have his membership transferred to the system established by this chapter as of such date. Upon retirement for service or for disability, or death, of any such employee, his retirement benefits earned under this chapter shall be computed and paid. In addition, his benefits under the prior retirement act to which he was making contributions at the time of this transfer shall be computed as if he had not transferred. For the purpose of such computations, the employee's creditability of service and eligibility for service or disability retirement and survivor and all other benefits shall continue to be as provided in such prior retirement act, as if transfer of membership had not occurred. The excess, if any, of the benefits so computed, giving full value to survivor benefits, over the benefits payable under this chapter shall be paid whether or not the employee has made application under the prior act. If the employee's prior retirement system was the Washington public employees' retirement system, payment of such excess shall be made by that system; if the employee's prior retirement system was the state-wide city employees' retirement system, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred: PROVIDED, That any death in line of duty lump sum benefit payment shall continue to be the obligation of that system as provided in RCW 41.44.210; in the case of all other prior retirement systems, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred.

(3) All funds held by any firemen's or policemen's relief and pension fund shall remain in that fund for the purpose of paying the obligations of the fund. The municipality shall continue to levy the dollar rate as provided in RCW 41.16.060, and this dollar rate shall be used for the purpose of paying the benefits provided in chapters 41.16 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to be paid from whatever financial sources the city has been using for this purpose. [1991 c 35 § 15; 1989 c 273 § 11; 1979 ex.s. c 45 § 1; 1974 ex.s. c 120 § 7; 1973 1st ex.s. c 195 § 44; 1970 ex.s. c 6 § 2; 1969 ex.s. c 209 § 4.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—**Effective dates**—1989 c 273: See RCW 41.45.900 and 41.45.901.

**Effective date**—1979 ex.s. c 45: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 45 § 8.] For codification of 1979 ex.s. c 45, see Codification Tables, Volume 0.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Severability**—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

**41.26.043 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.045 Minimum medical and health standards.**

(1) Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or fire fighter, may become eligible for coverage in the pension system established by this chapter, until the individual has met and has been certified as having met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police or fire chief, shall not be required to meet the age standard: PROVIDED FURTHER, That in cities and towns having not more than two law enforcement officers and/or not more than two fire fighters and if one or more of such persons do not meet the minimum medical and health standards as required by the provisions of this chapter, then such person or persons may join any other pension system that the city has available for its other employees: AND PROVIDED FURTHER, That for one year after February 19, 1974 any such medical or health standard now existing or hereinafter adopted, insofar as it establishes a maximum age beyond which an applicant is to be deemed ineligible for coverage, shall be waived as to any applicant for employment or reemployment who is otherwise eligible except for his age, who has been a member of any one or more of the retirement systems created by chapter 41.20 of the Revised Code of Washington and who has restored all contributions which he has previously withdrawn from any such system or systems.

(2) This section shall not apply to persons who initially establish membership in the retirement system on or after July 1, 1979. [1979 ex.s. c 249 § 3; 1977 ex.s. c 294 § 20; 1974 ex.s. c 120 § 8; 1971 ex.s. c 257 § 3.]

**Reviser's note:** "this 1971 act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030 and 41.48.050.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures.** By July 31, 1971, the \*retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act. In adopting such standards the \*retirement board shall consider existing standards recommended by the international association of chiefs of police and the international association of fire fighters, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure

uniform compliance with this chapter. The standards when adopted shall be published and distributed to each employer, and each employer shall adopt certification procedures and such other procedures as are required to insure that no law enforcement officer or fire fighter receives membership coverage unless and until he has actually met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police, fire chief, or director of public safety shall not be required to meet the age standard. The \*retirement board may amend the minimum medical and health standards as experience indicates, even if the standards as so amended are lower or less rigid than those recommended by the international associations mentioned above. The cost of the medical examination contemplated by this section is to be paid by the employer. [1987 c 418 § 2; 1977 ex.s. c 294 § 21; 1974 ex.s. c 120 § 12; 1972 ex.s. c 131 § 2; 1971 ex.s. c 257 § 4.]

**Reviser's note:** (1) "this 1971 act" [1971 ex.s. c 257] translated to "this chapter". The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030 and 41.48.050.

(2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Severability—1974 ex.s. c 120:** See note following RCW 41.26.030.

**Severability—1972 ex.s. c 131:** See note following RCW 41.26.030.

**Purpose—Severability—1971 ex.s. c 257:** See notes following RCW 41.26.030.

**41.26.047 Minimum medical and health standards—Exemptions—Employer may adopt higher standards.** Nothing in RCW 41.26.035, 41.26.045 and 41.26.046 shall apply to any fire fighters or law enforcement officers who are employed as such on or before August 1, 1971, as long as they continue in such employment; nor to promotional appointments after becoming a member in the police or fire department of any employer nor to the reemployment of a law enforcement officer or fire fighter by the same or a different employer within six months after the termination of his employment, nor to the reinstatement of a law enforcement officer or fire fighter who has been on military or disability leave, disability retirement status, or leave of absence status. Nothing in this chapter shall be deemed to prevent any employer from adopting higher medical and health standards than those which are adopted by the \*retirement board. [1972 ex.s. c 131 § 3; 1971 ex.s. c 257 § 5.]

**Reviser's note:** (1) "this act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030 and 41.48.050.

(2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**Severability—1972 ex.s. c 131:** See note following RCW 41.26.030.

**Purpose—Severability—1971 ex.s. c 257:** See notes following RCW 41.26.030.

**41.26.051 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.052 Notice for hearing required prior to petitioning for judicial review.** Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19. Formerly RCW 41.26.210.]

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**41.26.054 Hearing—Conduct.** A hearing shall be held by the director, or the director's duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be de novo and shall conform to the provisions of chapter 34.05 RCW, as now or hereafter amended. The disability board and the department shall be entitled to appear in all such proceedings and introduce testimony in support of the decision. Judicial review of any final decision by the director shall be governed by the provisions of chapter 34.05 RCW as now law or hereafter amended. [1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20. Formerly RCW 41.26.220.]

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**41.26.056 No bond required on appeal to court.** No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a decision of the director affecting such claimant's right to retirement or disability benefits. [1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21. Formerly RCW 41.26.230.]

**Severability—1984 c 184:** See note following RCW 41.50.150.

**41.26.058 Cause of action for injury or death, when.** If injury or death results to a member from the intentional or negligent act or omission of a member's governmental employer, the member, the widow, widower,

child, or dependent of the member shall have the privilege to benefit under this chapter and also have cause of action against the governmental employer as otherwise provided by law, for any excess of damages over the amount received or receivable under this chapter. [1991 c 35 § 28; 1971 ex.s. c 257 § 15. Formerly RCW 41.26.280.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.060 Recodified as RCW 41.50.055.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.062 Falsification—Penalty.** Any employer, member or beneficiary who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in an attempt to defraud the retirement system, shall be guilty of a felony. [1972 ex.s. c 131 § 10. Formerly RCW 41.26.300.]

**Severability**—1972 ex.s. c 131: See note following RCW 41.26.030.

**41.26.065 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## "PLAN I"

**41.26.075 Provisions applicable to plan I.** The provisions of the following sections of this subchapter shall apply only to members of plan I: RCW 41.26.080; 41.26.090; 41.26.100; 41.26.110; 41.26.115; 41.26.120; 41.26.125; 41.26.130; 41.26.135; 41.26.140; 41.26.150; 41.26.160; 41.26.170; 41.26.180; 41.26.190; 41.26.200; 41.26.240; 41.26.250; 41.26.260; 41.26.270; \*41.26.900; \*41.26.910; and \*41.26.920. [1991 c 35 § 101.]

**Reviser's note:** (1) 1991 c 35 § 10(2) directed that this section be added to chapter 41.40 RCW. However, the codification direction attached to this section directing placement in chapter 41.26 RCW appears more appropriate, so that this section has been codified as a part of chapter 41.26 RCW.

\* (2) RCW 41.26.900, 41.26.910, and 41.26.920 were recodified as RCW 41.26.3901, 41.26.3902, and 41.26.3903 pursuant to 1991 c 35 § 8.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.26.080 Funding total liability of plan I system.** The total liability of the plan I system shall be funded as follows:

(1) Every plan I member shall have deducted from each payroll a sum equal to six percent of his or her basic salary for each pay period.

(2) Every employer shall contribute monthly a sum equal to six percent of the basic salary of each plan I employee who is a member of this retirement system.

The employer shall transmit the employee and employer contributions with a copy of the payroll to the retirement system monthly.

(3) The remaining liabilities of the plan I system shall be funded as provided in chapter 41.45 RCW.

(4) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his or her salary or compensation. Payment less said contributions shall be a complete discharge of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter. [1991 c 35 § 17; 1989 c 273 § 13; 1969 ex.s. c 209 § 8.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—**Effective dates**—1989 c 273: See RCW 41.45.900 and 41.45.901.

**41.26.085 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.090 Retirement for service.** Retirement of a member for service shall be made by the department as follows:

(1) Any member having five or more service credit years of service and having attained the age of fifty years shall be eligible for a service retirement allowance and shall be retired upon the member's written request effective the first day following the date upon which the member is separated from service.

(2) Any member having five or more service credit years of service, who terminates his or her employment with any employer, may leave his or her contributions in the fund. Any employee who so elects, upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his or her years of service, commencing on the first day following his or her attainment of age fifty.

(3) Any member selecting optional vesting under subsection (2) of this section with less than twenty service credit years of service shall not be covered by the provisions of RCW 41.26.150, and the member's survivors shall not be entitled to the benefits of RCW 41.26.160 unless his or her death occurs after he or she has attained the age of fifty years. Those members selecting this optional vesting with twenty or more years service shall not be covered by the provisions of RCW 41.26.150 until the attainment of the age of fifty years. A member selecting this optional vesting, with less than twenty service credit years of service credit, who dies prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his or her estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest. If the vested member has twenty or more service

credit years of service credit the surviving spouse or children shall then become eligible for the benefits of RCW 41.26.160 regardless of the member's age at the time of his or her death, to the exclusion of the lump sum amount provided by this subsection.

(4) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty and may not thereafter be employed as a law enforcement officer or fire fighter: **PROVIDED**, That for any member who is elected or appointed to the office of sheriff, chief of police, or fire chief, his or her election or appointment shall be considered as a waiver of the age sixty provision for retirement and nonemployment for whatever number of years remain in his or her present term of office and any succeeding periods for which he or she may be so elected or appointed. The provisions of this subsection shall not apply to any member who is employed as a law enforcement officer or fire fighter on March 1, 1970. [1991 1st sp.s. c 11 § 4. Prior: 1991 c 343 § 15; 1991 c 35 § 18; 1977 ex.s. c 294 § 22; 1972 ex.s. c 131 § 6; 1971 ex.s. c 257 § 8; 1970 ex.s. c 6 § 4; 1969 ex.s. c 209 § 9.]

**Purpose**—1991 1st sp.s. c 11: "The purpose of this act is to correct certain double amendments created during the 1991 regular session that the code reviser's office is unable to merge under RCW 1.12.025. The session laws repealed by section 2 of this act are strictly technical in nature and affect no policy. Sections \*3 through 6 of this act are being reenacted to effectuate a legislative directive contained in 1991 c 35 s 2." [1991 1st sp.s. c 11 § 1.]

**\*Reviser's note:** 1991 1st sp.s. c 11 § 3 was repealed by 1991 1st sp.s. c 12 § 3.

**Effective dates**—1991 1st sp.s. c 11: "(1) Sections \*3 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991.

(2) Sections 1, 2, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately." [1991 1st sp.s. c 11 § 7.]

**\*Reviser's note:** 1991 1st sp.s. c 11 § 3 was repealed by 1991 1st sp.s. c 12 § 3.

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1972 ex.s. c 131: See note following RCW 41.26.030.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.100 Allowance on retirement for service.** A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: **PROVIDED**, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his or her retirement status and he or she shall

immediately become a member of the retirement system with the status of membership he or she had as of the date of retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary: **PROVIDED FURTHER**, That no retirement allowance paid pursuant to this section shall exceed sixty percent of final average salary, except as such allowance may be increased by virtue of RCW 41.26.240, as now or hereafter amended. [1991 c 343 § 16; 1974 ex.s. c 120 § 3; 1972 ex.s. c 131 § 7; 1971 ex.s. c 257 § 9; 1970 ex.s. c 6 § 5; 1969 ex.s. c 209 § 10.]

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Severability**—1972 ex.s. c 131: See note following RCW 41.26.030.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.110 City and county disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties.** (1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor, one active or retired fire fighter to be elected by the fire fighters employed by or retired from the city, one active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the city and one member from the public at large who resides within the city to be appointed by the other four members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: **PROVIDED**, That cities of the first class only, shall retain existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters or law enforcement officers as provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not employed by a city in which a disability

board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter or retired fire fighter to be elected by the fire fighters employed or retired in the county who are not employed by or retired from a city in which a disability board is established, one law enforcement officer or retired law enforcement officer to be elected by the law enforcement officers employed in or retired from the county who are not employed by or retired from a city in which a disability board is established, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter. [1988 c 164 § 1; 1982 c 12 § 1; 1974 ex.s. c 120 § 9; 1970 ex.s. c 6 § 6; 1969 ex.s. c 219 § 3; 1969 ex.s. c 209 § 11.]

**Severability—1974 ex.s. c 120:** See note following RCW 41.26.030.

**41.26.115 Director of retirement systems to adopt rules governing disability boards—Remand of orders not in accordance with rules.** (1) The director of retirement systems shall adopt rules, in accordance with chapter 34.05 RCW, under which each disability board shall execute its disability retirement duties under this chapter. The rules shall include, but not be limited to, the following:

(a) Standards governing the type and manner of presentation of medical, employability, and other evidence before disability boards; and

(b) Standards governing the necessity and frequency of medical and employability reexaminations of persons receiving disability benefits.

(2) If the director determines that an order or determination of a disability board was not processed in accordance with the rules established under this section, the director may remand the order or determination for further proceedings consistent with the rules. [1981 c 294 § 1.]

**Severability—1981 c 294:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 294 § 16.]

**41.26.120 Retirement for disability incurred in the line of duty.** Any member, regardless of age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his or her discontinuance of service and which renders the member unable to continue service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his or her application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the full monthly salary and shall continue to receive all other benefits provided to active employees from the employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his or her behalf, stating that said member is disabled, either physically or mentally: **PROVIDED**, That no such application shall be considered unless said member or someone in his or her behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: **PROVIDED**, That in any order granting a duty disability retirement allowance, the disability board shall make a finding that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish, to the disability board, that he or she is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1991 c 35 § 19; 1986 c 176 § 5; 1985 c 102 § 2; 1981 c 294 § 2; 1974 ex.s. c 120 § 10; 1972 ex.s. c 131 § 8; 1970 ex.s. c 6 § 7; 1969 ex.s. c 209 § 12.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Purpose**—1985 c 102: "As expressed in RCW 41.26.270, the intent of the legislature in enacting the law enforcement officers' and fire fighters' retirement system was to provide in RCW 41.26.120 a statute in the nature of a workers' compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. The sole purpose of this 1985 act is to clarify that intent." [1985 c 102 § 1.]

**Retrospective application**—1985 c 102: "The provisions of this 1985 act apply retrospectively to all disability leave and disability retirement allowances granted under chapter 41.26 RCW on or after March 1, 1970." [1985 c 102 § 7.]

**Severability**—1981 c 294: See note following RCW 41.26.115.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Severability**—1972 ex.s. c 131: See note following RCW 41.26.030.

*Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.*

**41.26.125 Retirement for disability not incurred in the line of duty.** Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an

allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is, or is believed to be, physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: **PROVIDED**, That no such application shall be considered unless the member or someone acting in the member's behalf, in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: **PROVIDED**, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such

disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a nonduty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1986 c 176 § 6; 1985 c 102 § 3.]

**Purpose—Retrospective application—1985 c 102:** See notes following RCW 41.26.120.

**41.26.130 Allowance on retirement for disability.** (1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of (a) and (b) of this subsection shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving the disability retirement allowance as of the expiration of his or her six month period of disability leave or, if his or her application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he or she shall then receive either disability retirement allowance or retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical examinations per year. [1991 c 35 § 20; 1987 c 185 § 11; 1981 c 294 § 3; 1970 ex.s. c 6 § 8; 1969 ex.s. c 209 § 13.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Intent—Severability—1987 c 185:** See notes following RCW 51.12.130.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**41.26.135 Cessation of disability—Determination.** (1) A disabled member who believes that his or her disability has ceased in accordance with RCW 41.26.130(3) may make application to the disability board which originally found the member to be disabled, for a determination that the disability has ceased.

(2) Every order of a disability board determining that a member's disability has ceased pursuant to RCW

41.26.130(3) shall forthwith be reviewed by the director. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(3) Determinations of whether a disability has ceased under RCW 41.26.130(3) and this section shall be made in accordance with the same procedures and standards governing other cancellations of disability retirement. [1985 c 103 § 1.]

**41.26.140 Reexaminations of disability beneficiaries—Reentry—Appeal.** (1) Upon the basis of reexaminations of members on disability retirement as provided in RCW 41.26.130, the disability board shall determine whether such disability beneficiary is still unable to perform his or her duties either physically or mentally for service in the department where he or she was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his or her retirement or if unable to perform the duties of said rank, then, at his or her request, in such other like or lesser rank as may be or become open and available, the duties of which he or she is then able to perform. In no event, shall a beneficiary previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the said beneficiary at the date of retirement for disability. If the disability board determines that the beneficiary is able to return to service he or she shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, as now or hereafter amended.

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, the retirement allowance shall be canceled and he or she shall immediately become a member of the retirement system.

(4) Should any disability beneficiary under age fifty refuse to submit to examination, the retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year or more, the retirement allowance shall be canceled.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he

or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) Any person feeling aggrieved by an order of a disability board determining that a beneficiary's disability has not ceased, pursuant to RCW 41.26.130(3) has the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for further proceedings if the director finds that the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious. [1991 c 35 § 21; 1985 c 103 § 2; 1981 c 294 § 4; 1974 ex.s. c 120 § 4; 1970 ex.s. c 6 § 9; 1969 ex.s. c 209 § 14.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1981 c 294: See note following RCW 41.26.115.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**41.26.150 Sickness or disability benefits—Medical services.** (1) Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in subsection (2) of this section. In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where such fund had been established prior to March 1, 1970. If this pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW.

(a) The disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to

report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all rights to benefits under this section for the period of such refusal.

(b) The disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 as now or hereafter amended shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making such payments as are provided for in subsection (1) of this section, the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who were, before retirement, members of said retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any such plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section. [1991 c 35 § 22; 1987 c 185 § 12; 1983 c 106 § 23; 1974 ex.s. c 120 § 11; 1971 ex.s. c 257 § 10; 1970 ex.s. c 6 § 10; 1969 ex.s. c 219 § 4; 1969 ex.s. c 209 § 15.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Intent**—**Severability**—1987 c 185: See notes following RCW 51.12.130.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.160 Death benefits.** (1) In the event of the death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more service credit years of service, or who is on disability leave or retired, whether for disability or service, the surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of the

final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), as now or hereafter amended, subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he or she was married at the time he or she was disabled, the surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), as now or hereafter amended, there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), as now or hereafter amended, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) of this section.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date. [1991 1st sp.s. c

11 § 5. Prior: 1991 c 343 § 17; 1991 c 35 § 23; 1986 c 176 § 7; 1977 ex.s. c 294 § 23; 1974 ex.s. c 120 § 5; 1972 ex.s. c 131 § 9; 1971 ex.s. c 257 § 11; 1970 ex.s. c 6 § 12; 1969 ex.s. c 209 § 17.]

**Purpose**—**Effective dates**—1991 1st sp.s. c 11: See notes following RCW 41.26.090.

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

**Severability**—1972 ex.s. c 131: See note following RCW 41.26.030.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.162 Ex spouse qualifying as surviving spouse**—**When.** (1) An ex spouse of a law enforcement officers' and fire fighters' retirement system retiree shall qualify as surviving spouse under RCW 41.26.160 if the ex spouse:

(a) Has been provided benefits under any currently effective court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation entered after the member's retirement and prior to December 31, 1979; and

(b) Was married to the retiree for at least thirty years, including at least twenty years prior to the member's retirement or separation from service if a vested member.

(2) If two or more persons are eligible for a surviving spouse benefit under this subsection, benefits shall be divided between the surviving spouses based on the percentage of total service credit the member accrued during each marriage.

(3) This section shall apply retroactively. [1991 1st sp.s. c 12 § 2.]

**41.26.170 Refund of contributions on discontinuance of service**—**Reentry.** (1) Should service of a member be discontinued except by death, disability, or retirement, the member shall, upon application therefor, be paid the accumulated contributions within sixty days after the day of application and the rights to all benefits as a member shall cease: PROVIDED, That any member with at least five years' service may elect the provisions of RCW 41.26.090(2).

(2) Any member whose contributions have been paid in accordance with subsection (1) of this section and who reenters the service of an employer within ten years of the date of separation shall upon the restoration of all withdrawn contributions, which restoration must be completed within a total period of five years of service following resumption of employment, then receive credit toward retirement for the period of previous service which these contributions are to cover. [1991 c 35 § 24; 1970 ex.s. c 6 § 14; 1969 ex.s. c 209 § 22.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.26.180 Exemption from judicial process, taxes**—**Exceptions**—**Deduction for insurance upon**

**request.** (1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 20; 1991 c 35 § 25; 1989 c 360 § 24; 1987 c 326 § 22; 1979 ex.s. c 205 § 4; 1971 ex.s. c 257 § 12; 1970 ex.s. c 6 § 15; 1969 ex.s. c 209 § 23.]

**Reviser's note:** This section was amended by 1991 c 35 § 25 and by 1991 c 365 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Effective date—1987 c 326:** See RCW 41.50.901.

**Purpose—Severability—1971 ex.s. c 257:** See notes following RCW 41.26.030.

**41.26.190 Credit for military service.** Each person affected by this chapter who at the time of entering the armed services was a member of this system, and has honorably served in the armed services of the United States, shall have added to the period of service as computed under this chapter, the period of service in the armed forces: PROVIDED, That such credited service shall not exceed five years. [1991 c 35 § 26; 1970 ex.s. c 6 § 13; 1969 ex.s. c 209 § 18.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.26.200 Appeal to director of retirement systems.** Any person feeling aggrieved by any order or determination of a disability board denying disability leave or disability retirement, or canceling a previously granted

disability retirement allowance, shall have the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the applicable disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for such further proceedings as he or she may direct, in accordance with such rules of procedure as the director shall promulgate. [1981 c 294 § 5; 1974 ex.s. c 120 § 6; 1971 ex.s. c 257 § 13; 1970 ex.s. c 6 § 11; 1969 ex.s. c 209 § 16.]

**Severability—1981 c 294:** See note following RCW 41.26.115.

**Severability—1974 ex.s. c 120:** See note following RCW 41.26.030.

**Purpose—Severability—1971 ex.s. c 257:** See notes following RCW 41.26.030.

**41.26.210 Recodified as RCW 41.26.052.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.220 Recodified as RCW 41.26.054.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.230 Recodified as RCW 41.26.056.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index.** For purposes of this section:

(1) "Index" shall mean, for any calendar year, that year's average Consumer Price Index—Seattle, Washington area for urban wage earners and clerical workers, all items (1957–1959=100), compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Retirement allowance" shall mean the retirement allowance provided for in RCW 41.26.100 and 41.26.130, and the monthly allowance provided for in RCW 41.26.160.

Effective April 1 of 1971, and of each succeeding year, every retirement allowance which has been in effect for more than one year shall be adjusted to that dollar amount which exceeds its original dollar amount by the percentage difference which the department finds to exist between the index for the previous calendar year and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid.

For the purposes of this section, basic allowance shall mean that portion of a total retirement allowance, and any cost of living adjustment thereon, attributable to a

member (individually) and shall not include the increased amounts attributable to the existence of a child or children. In those cases where a child ceases to be qualified as an eligible child, so as to lessen the total allowance, the allowance shall, at that time, be reduced to the basic allowance plus the amount attributable for the appropriate number of eligible children. In those cases where a child qualifies as an eligible child subsequent to the retirement of a member so as to increase the total allowance payable, such increased allowance shall at the time of the next and appropriate subsequent cost of living adjustments, be considered the original dollar amount of the allowance. [1991 c 35 § 27; 1974 ex.s. c 120 § 13; 1970 ex.s. c 6 § 16; 1969 ex.s. c 209 § 24.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1974 ex.s. c 120: See note following RCW 41.26.030.

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

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

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975 1st ex.s. c 178 § 3; 1974 ex.s. c 190 § 3; 1970 ex.s. c 37 § 2; 1969 ex.s. c 209 § 34.]

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

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

**41.26.260 Increase in certain presently payable death benefits authorized.** All benefits presently payable pursuant to the provisions of RCW 41.20.085 which are not related to the amount of current salary attached to the

position held by the deceased member, shall be increased annually in the same manner and to the same extent as provided for pursuant to RCW 41.26.250. [1974 ex.s. c 190 § 4; 1969 ex.s. c 209 § 35.]

**41.26.270 Declaration of policy respecting benefits for injury or death—Civil actions abolished.** The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workers to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter. [1989 c 12 § 13; 1987 c 185 § 13; 1985 c 102 § 4; 1971 ex.s. c 257 § 14.]

**Intent**—**Severability**—1987 c 185: See notes following RCW 51.12.130.

**Purpose**—**Retrospective application**—1985 c 102: See notes following RCW 41.26.120.

**Purpose**—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

**41.26.280 Recodified as RCW 41.26.058.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.300 Recodified as RCW 41.26.062.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.310 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.320 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.330 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.3901 Severability—1969 ex.s. c 209.** If any provision of \*this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 209 § 42. Formerly RCW 41.26.900.]

\*Reviser's note: "this 1969 amendatory act," see note following chapter digest.

**41.26.3902 Act to control inconsistencies.** To the extent that the provisions of \*this 1969 amendatory act are inconsistent with the provisions of any other law, the provisions of \*this 1969 amendatory act shall be controlling. [1969 ex.s. c 209 § 43. Formerly RCW 41.26.910.]

\*Reviser's note: "this 1969 amendatory act," see note following chapter digest.

**41.26.3903 Effective date—1969 ex.s. c 209.** \*This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1969. [1969 ex.s. c 209 § 45. Formerly RCW 41.26.920.]

\*Reviser's note: "This 1969 amendatory act," see note following chapter digest.

## "PLAN II"

**41.26.400 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.405 Provisions applicable to plan II.** The provisions of the following sections of this subchapter shall apply only to members of plan II: RCW \*41.26.400; 41.26.410; 41.26.420; 41.26.425; 41.26.430; 41.26.440; 41.26.450; 41.26.460; 41.26.470; 41.26.480; 41.26.490; 41.26.500; 41.26.510; 41.26.520; 41.26.530; 41.26.540; 41.26.550; 41.26.901; and 41.26.921. [1991 c 35 § 102.]

\*Reviser's note: RCW 41.26.400 was decodified pursuant to 1991 c 35 § 4.

Intent—1991 c 35: See note following RCW 41.26.005.

**41.26.410 Sections applicable to plan II members.** RCW 41.26.420 through 41.26.550 shall apply only to plan II members. [1991 c 35 § 29; 1977 ex.s. c 294 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

**Legislative direction and placement—1977 ex.s. c 294:** "Sections 1 through 16 of this 1977 amendatory act shall be added to chapter 41.26 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 294 § 25.]

**Section headings—1977 ex.s. c 294:** "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 294 § 24.]

**41.26.420 Computation of the retirement allowance.** A member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of service. [1979 ex.s. c 249 § 4; 1977 ex.s. c 294 § 3.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.425 Lump sum retirement allowance—Re-entry—Limitation.** (1) On or after June 10, 1982, the director may pay a beneficiary, as defined in \*RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.26.420 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, as defined in \*RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status as defined in \*RCW 41.04.040(2) reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.26.420 or an earned disability allowance under RCW 41.26.470 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1982 c 144 § 1.]

\*Reviser's note: RCW 41.04.040 was repealed by 1989 c 273 § 30.

**41.26.430 Retirement for service.** (1) **NORMAL RETIREMENT.** Any member with at least five service credit years of service who has attained at least age fifty-eight shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-eight. [1991 c 343 § 18; 1977 ex.s. c 294 § 4.]

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.440 Post-retirement cost-of-living.** Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 294 § 5.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.450 Plan II employer, member, and state contributions.** The required contribution rates to the plan II system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit.

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne

in full by the state or by that employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. The state's contribution required by this section shall be transferred to the plan II fund from the total contributions transferred by the state treasurer under RCW 41.45.060 and 41.45.070. [1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.460 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and member's spouse do not give written consent to

an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 3; 1977 ex.s. c 294 § 7.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.26.450.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to such person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

*Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.*

**41.26.475 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.480 Industrial insurance.** Notwithstanding any other provision of law, members shall be eligible for industrial insurance as provided by Title 51 RCW, as now or hereafter amended, and shall be included in the payroll of the employer for such purpose. [1977 ex.s. c 294 § 9.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.490 Application for and effective date of retirement allowances.** Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 294 § 10.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.500 Suspension of retirement allowance upon reemployment—Reinstatement.** (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section. [1990 c 274 § 12; 1977 ex.s. c 294 § 11.]

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15:** See note following RCW 41.40.690.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.510 Death benefits.** (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by

written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.520 Service credit for authorized leave of absence.** (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: **PROVIDED**, That for the purpose of this subsection the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.26.450. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(3) A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence.

(4) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence. [1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.530 Vested membership.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.26.430 if such member maintains the member's accumulated contributions intact. [1977 ex.s. c 294 § 14.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.540 Refund of contributions on termination.** A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under

RCW 41.26.410 through 41.26.550. [1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.550 Reentry.** A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1977 ex.s. c 294 § 16.]

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.560 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.600 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.900 Recodified as RCW 41.26.3901.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.901 Severability—1977 ex.s. c 294.** If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 294 § 26.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**41.26.910 Recodified as RCW 41.26.3902.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.920 Recodified as RCW 41.26.3903.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.26.921 Effective date—1977 ex.s. c 294.** This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977. [1977 ex.s. c 294 § 27.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

## Chapter 41.28

RETIREMENT OF PERSONNEL IN CERTAIN  
FIRST CLASS CITIES

## Sections

41.28.020 Retirement system created—Adoption by cities.

**41.28.020 Retirement system created—Adoption by cities.** A retirement system is hereby created and established in each city of the first class in each county with a population of one hundred twenty-five thousand or more to be known as the "employees' retirement system". This chapter shall become effective as to any such city when by ordinance of the city duly enacted its terms are expressly accepted and made applicable thereto. This section shall not be construed as preventing performance before July 1, 1939, of any preliminary work which any city council, city commission or board of administration shall deem necessary. [1991 c 363 § 118; 1939 c 207 § 3; RRS § 9592-103. FORMER PART OF SECTION: 1939 c 207 § 1; RRS § 9592-101 now codified as RCW 41.28.005.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

## Chapter 41.32

## TEACHERS' RETIREMENT

## Sections

**"PROVISIONS APPLICABLE TO PLAN I AND PLAN II"**

41.32.005 Provisions applicable to "plan I" and "plan II."  
41.32.010 Definitions.  
41.32.011 Recodified as RCW 41.32.345.  
41.32.013 Substitute teachers—Application for service credit—Procedures.  
41.32.015 Decodified.  
41.32.020 Name of system.  
41.32.025 Department's power to determine eligibility.  
41.32.030 Recodified as RCW 41.50.200.  
41.32.032 Membership in system—Service credit of educational staff associates.  
41.32.035 Employer contribution rates—Computation and payment.  
41.32.042 Validity of deductions—Interest.  
41.32.044 Retired teacher may reenter system—Benefit limitations.  
41.32.045 Repealed.  
41.32.052 Exemption from taxation and judicial process—Exceptions—Nonassignability—Deductions authorized.  
41.32.055 Falsification—Penalty.  
41.32.062 Effect of certain accumulated vacation leave on retirement benefits.  
41.32.065 Election to use out-of-state service credit to calculate time at which the member may retire.  
41.32.067 Purchase of additional benefits—Conditions.  
41.32.120 Recodified as RCW 41.50.205.  
41.32.130 Recodified as RCW 41.50.210.  
41.32.140 Repealed.  
41.32.160 Recodified as RCW 41.32.025.  
41.32.170 Repealed.  
41.32.180 Repealed.  
41.32.190 Recodified as RCW 41.50.215.  
41.32.201 Repealed.  
41.32.202 Repealed.  
41.32.203 Repealed.  
41.32.207 Repealed.

**"PLAN I"**

41.32.215 Provisions applicable to plan I.  
41.32.220 Repealed.  
41.32.230 Recodified as RCW 41.50.220.  
41.32.240 Membership in system.  
41.32.242 Recodified as RCW 41.32.032.  
41.32.243 Decodified.  
41.32.2431 Decodified.  
41.32.2432 Decodified.  
41.32.245 Decodified.  
41.32.250 Decodified.  
41.32.260 Credit for military service or as state legislator.  
41.32.263 State legislators and state officials eligible for retirement benefits.  
41.32.265 Decodified.  
41.32.270 Teaching service, how credited.  
41.32.280 Decodified.  
41.32.290 Decodified.  
41.32.300 Limitation on credit for out-of-state service.  
41.32.310 Time limit for claiming service credit—Payments.  
41.32.320 Repealed.  
41.32.330 Credit for professional preparation subsequent to becoming teacher.  
41.32.340 Creditable service, what to consist of.  
41.32.345 "Earnable compensation" defined for certain part-time employees—Adoption of rules.  
41.32.350 Purchase of additional annuity.  
41.32.360 Basis of contributions to disability reserve fund.  
41.32.365 Decodified.  
41.32.366 Basis of contributions to death benefit fund.  
41.32.380 Source of pension reserve fund—Contributions.  
41.32.390 Contributions for prior service credits.  
41.32.401 Repealed.  
41.32.403 Recodified as RCW 41.32.035.  
41.32.405 Recodified as RCW 41.50.225.  
41.32.420 Recodified as RCW 41.50.230.  
41.32.430 Recodified as RCW 41.50.235.  
41.32.440 Repealed.  
41.32.460 Recodified as RCW 41.32.042.  
41.32.470 Eligibility for retirement allowance.  
41.32.480 Qualifications for retirement.  
41.32.485 Minimum retirement allowance—Cost-of-living adjustment—Post-retirement adjustment—Computation.  
41.32.486 Decodified.  
41.32.487 Minimum retirement allowance—Annual cost-of-living adjustment.  
41.32.488 Annual cost-of-living adjustment not contractual entitlement.  
41.32.491 Decodified.  
41.32.492 Decodified.  
41.32.493 Repealed.  
41.32.4931 Additional special pension for former members not receiving social security.  
41.32.4932 Repealed.  
41.32.494 Decodified.  
41.32.4943 Decodified.  
41.32.4944 Repealed.  
41.32.4945 Limitation as to earnable compensation of member as member of the legislature.  
41.32.497 Retirement allowance for members entering system before April 25, 1973—Election.  
41.32.498 Retirement allowance for members entering system after April 25, 1973 or in lieu of allowance under RCW 41.32.497.  
41.32.499 Service retirement allowance adjustments based on cost-of-living factors.  
41.32.500 Termination of membership—When membership may be retained—Resumption of employment and restoration of service credit.  
41.32.510 Payment on withdrawal—Reentry.  
41.32.520 Payment on death before retirement.  
41.32.522 Death benefits.  
41.32.523 Death benefits—Members not qualified for benefits under RCW 41.32.522 and retired former members.  
41.32.530 Options available.

41.32.540 Disability allowance—Temporary.  
 41.32.550 Options and allowances on report that disability will be permanent—Reexamination.  
 41.32.555 Persons with annual half-time contracts—Eligibility for benefits under RCW 41.32.550.  
 41.32.560 Decodified.  
 41.32.561 Decodified.  
 41.32.565 Repealed.  
 41.32.567 Decodified.  
 41.32.570 Suspension of pension payments.  
 41.32.575 Cost of living adjustment—Age sixty-five allowance—Information compiled—Definitions.  
 41.32.580 Recodified as RCW 41.32.044.  
 41.32.583 Decodified.  
 41.32.590 Recodified as RCW 41.32.052.  
 41.32.600 Repealed.  
 41.32.610 Appeal by claimant.  
 41.32.620 Appeal by five members.  
 41.32.630 Transcript and papers to superior court.  
 41.32.650 Repealed.  
 41.32.670 Recodified as RCW 41.32.055.

#### "PLAN II"

41.32.700 Provisions applicable to plan II.  
 41.32.750 Decodified.  
 41.32.755 Application to certain persons.  
 41.32.760 Computation of the retirement allowance.  
 41.32.762 Lump sum retirement allowance—Reentry—Limitation.  
 41.32.765 Retirement for service.  
 41.32.770 Post-retirement cost-of-living.  
 41.32.775 Employer and member contributions.  
 41.32.780 Teachers required to be members.  
 41.32.785 Options for payment of retirement allowances.  
 41.32.790 Earned disability allowance—Eligibility—Disposition upon death of recipient.  
 41.32.795 Application for and effective date of retirement allowances.  
 41.32.800 Suspension of retirement allowance upon reemployment—Reinstatement.  
 41.32.805 Death benefits.  
 41.32.810 Service credit for authorized leave of absence.  
 41.32.812 Service credit for half-time employment from October 1, 1977, through December 31, 1986.  
 41.32.815 Vested membership.  
 41.32.820 Refund of contributions on termination.  
 41.32.825 Reentry.  
 41.32.830 Recodified as RCW 41.50.240.  
 41.32.850 Recodified as RCW 41.32.062.

**Prior acts relating to teachers' retirement:** (1) 1943 c 116; 1941 c 97; 1939 c 86, 40; 1937 c 221 (repealed by 1947 c 80 § 70).

(2) 1931 c 115; 1923 c 187; 1919 c 150; 1917 c 163 (repealed by 1937 c 221 § 14).

*Employee salary or compensation—Limitations respecting:* RCW 28A.400.220.

*Portability of public retirement benefits:* Chapter 41.54 RCW.

*Teachers in state penal reformatory institutions as members of teachers' retirement fund:* RCW 72.01.200.

### "PROVISIONS APPLICABLE TO PLAN I AND PLAN II"

**41.32.005 Provisions applicable to "plan I" and "plan II."** (1) The provisions of the following sections of this chapter shall apply to members of plan I and plan II: RCW 41.32.010; \*41.32.011; 41.32.020; \*41.32.160; \*41.32.242; \*41.32.460; \*41.32.580; \*41.32.670; \*41.32.850; and 41.32.013. [1991 c 35 § 30; 1990 c 274 § 16. Prior: 1989 c 273 § 15; 1989 c 272 § 4; 1977 ex.s. c 293 § 19.]

\*Reviser's note: RCW 41.32.011, 41.32.160, 41.32.242, 41.32.460, 41.32.580, 41.32.670, and 41.32.850 were recodified as RCW

41.32.345, 41.32.025, 41.32.032, 41.32.042, 41.32.044, 41.32.055, and 41.32.062 pursuant to 1991 c 35 § 9.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Purpose—1989 c 272:** See note following RCW 41.40.325.

**Effective date—Severability—1977 ex.s. c 293:** See notes following RCW 41.32.755.

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

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

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

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

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

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

(6)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

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

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(11)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted

as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in \*RCW 41.32.011. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

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

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

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

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

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

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

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

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

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

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to plan I members.

(24) "Regular interest" means such rate as the director may determine.

(25)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(27)(a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

The department shall adopt rules implementing this subsection.

(28) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to plan I members.

(31) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(32) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(33) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(34) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(35) "Director" means the director of the department.

(36) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(37) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(38) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(39)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(40) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(41) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977. [1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6. Prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

**Reviser's note:** (1) This section was amended by 1991 c 35 § 31 and by 1991 c 343 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

\* (2) RCW 41.32.011 was recodified as RCW 41.32.345 pursuant to 1991 c 35 § 9.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 274:** "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan II systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan II retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

**Intent—Reservation—1990 c 274 §§ 2 and 4:** "The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or

her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right." [1990 c 274 § 18.]

**Effective date—1990 c 274:** "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

**Construction—1990 c 274:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

The above four annotations apply to 1990 c 274. For codification of that act, see Codification Tables, Supplement Volume 9A.

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Effective date—Severability—1977 ex.s. c 293:** See notes following RCW 41.32.755.

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

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

The above two annotations apply to 1974 ex.s. c 199. For codification of that act, see Codification Tables, Volume 0.

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

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

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

**Reviser's note:** (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

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

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

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

The above two annotations apply to 1967 c 50. For codification of that act, see Codification Tables, Volume 0.

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

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

The above two annotations apply to 1965 ex.s. c 81. For codification of that act, see Codification Tables, Volume 0.

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

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

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

The above three annotations apply to 1963 ex.s. c 14. For codification of that act, see Codification Tables, Volume 0.

**41.32.011 Recodified as RCW 41.32.345.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.013 Substitute teachers—Application for service credit—Procedures.** Substitute teachers may apply to the department to receive service credit or credit for earnable compensation or both after the end of the last day of instruction of the school year during which the service was performed.

(1) The application must:

(a) Include a list of the employers the substitute teacher has worked for;

(b) Include proof of hours worked and compensation earned; and

(c) Be made prior to retirement.

(2) If the department accepts the substitute teacher's application for service credit, the substitute teacher may obtain service credit by paying the required contribution to the retirement system. The employer must pay the required employer contribution upon notice from the department that the substitute teacher has made contributions under this section.

(3) The department shall charge interest prospectively on employee contributions that are submitted under this section more than six months after the end of the school year, as defined in RCW 28A.150.040, for which the substitute teacher is seeking service credit. The interest rate charged to the employee shall take into account interest lost on employer contributions delayed for more than six months after the end of the school year.

(4) Each employer shall quarterly notify each substitute teacher it has employed during the school year of the number of hours worked by, and the compensation paid to, the substitute teacher.

(5) The department shall adopt rules implementing this section.

(6) If a substitute teacher as defined in RCW 41.32.010(39)(b)(ii) applies to the department under this section for credit for earnable compensation earned from an employer the substitute teacher must make contributions for all periods of service for that employer. [1991 c 343 § 4; 1990 c 274 § 5.]

**Findings—Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Findings—Effective date—Construction**—1990 c 274: See notes following RCW 41.32.010.

**41.32.015 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.020 Name of system.** The name of the retirement system provided for in this chapter shall be the "Washington State Teachers' Retirement System" and by this name all of its business shall be transacted and all of its funds invested and all of its cash, securities and other property held. [1947 c 80 § 2; Rem. Supp. 1947 § 4995–21. Prior: 1937 c 221 § 2; Rem. Supp. 1941 § 4995–2.]

**41.32.025 Department's power to determine eligibility.** The department is empowered within the limits of this chapter to decide on all questions of eligibility covering membership, service credit, and benefits. [1991 c 35 § 35; 1955 c 274 § 3; 1947 c 80 § 16; Rem. Supp. 1947 § 4995–35. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995–3, part. Formerly RCW 41.32.160.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.32.030 Recodified as RCW 41.50.200.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.032 Membership in system—Service credit of educational staff associates.** (1) Any teacher, as defined under \*RCW 41.32.010(29), who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system as directed under RCW 41.32.780 if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after June 7, 1984 has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under \*RCW 41.32.010(29). This service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made

by submitting written notification as required by the department requesting credit under this section and by permitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection. [1991 c 35 § 39; 1984 c 256 § 2. Formerly RCW 41.32.242.]

**\*Reviser's note:** RCW 41.32.010(29) was renumbered as RCW 41.32.010(31) by 1991 c 343 § 3.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.32.035 Employer contribution rates—Computation and payment.** The amount paid by each employer shall be computed by applying the rates established under chapter 41.45 RCW to the total earnable compensation of the employer's members as shown on the current payrolls of the employer. The employer's contribution shall be paid at the end of each month in the amount due for that month, except as provided in RCW 41.32.013. [1990 c 274 § 8; 1989 c 273 § 18; 1984 c 236 § 3. Formerly RCW 41.32.403.]

**Findings—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Effective date—Severability—1984 c 236:** See notes following RCW 41.50.225.

**41.32.042 Validity of deductions—Interest.** The deductions from salaries of members of the retirement system for their contributions to the system are not considered diminution of pay and every member is conclusively presumed to consent thereto as a condition of employment. All contributions to the annuity fund shall be credited to the individual for whose account the deductions from salary were made. Regular interest shall be credited to each member's account at least annually. [1982 1st ex.s. c 52 § 13; 1947 c 80 § 46; Rem. Supp. 1947 § 4995-65. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.460.]

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**41.32.044 Retired teacher may reenter system—Benefit limitations.** A retired teacher upon returning to service in the public schools of Washington may elect to again become a member of the retirement system: PROVIDED, That if such a retired teacher elects to be restored to membership he must establish two full years of service credit before he will be eligible to retire under the provision of a formula other than the one in effect at the time of his previous retirement: PROVIDED FURTHER, That where any such right to again retire is exercised to become effective before a member has established two full years of service credit he may elect

to retire only under the provisions of the formula in effect at the time of his previous retirement: AND PROVIDED FURTHER, That this section shall not apply to any individual who has returned to service and is presently in service on \*the effective date of this 1973 amendatory act. [1973 2nd ex.s. c 32 § 5; 1947 c 80 § 58; Rem. Supp. 1947 § 4995-77. Formerly RCW 41.32.580.]

**\*Reviser's note:** "the effective date of this 1973 amendatory act," because of the emergency clause footnoted to RCW 41.32.310, is September 27, 1973, the date of approval by the governor. Note retroactive effect of amendment to RCW 41.32.499(4).

**Emergency—Severability—1973 2nd ex.s. c 32:** See notes following RCW 41.32.310.

**41.32.045 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.052 Exemption from taxation and judicial process—Exceptions—Nonassignability—Deductions authorized.** (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under this system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules that may be adopted by the director.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a

mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 21; 1991 c 35 § 63; 1989 c 360 § 25; 1987 c 326 § 23; 1982 c 135 § 1; 1981 c 294 § 13; 1979 ex.s. c 205 § 5; 1971 c 63 § 1; 1961 c 132 § 5; 1947 c 80 § 59; Rem. Supp. 1947 § 4995-78. Prior: 1937 c 22 § 9; 1917 c 163 § 19. Formerly RCW 41.32.590.]

**Reviser's note:** This section was amended by 1991 c 35 § 63 and by 1991 c 365 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Effective date—1987 c 326:** See RCW 41.50.901.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**Effective date—1961 c 132:** See note following RCW 41.32.240.

**41.32.055 Falsification—Penalty.** Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a felony. [1947 c 80 § 67; Rem. Supp. 1947 § 4995-86. Prior: 1937 c 221 § 10. Formerly RCW 41.32.670.]

**41.32.062 Effect of certain accumulated vacation leave on retirement benefits.** RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 3. Formerly RCW 41.32.850.]

**41.32.065 Election to use out-of-state service credit to calculate time at which the member may retire.** A member may elect under this section to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. The benefit shall be actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the state of Washington and the member's retirement age. [1991 c 278 § 1.]

**41.32.067 Purchase of additional benefits—Conditions.** A member may purchase additional benefits subject to the following:

(1) The member shall pay all reasonable administrative and clerical costs; and

(2) The member shall make an annuity fund contribution to be actuarially converted to a monthly benefit at the time of retirement. [1991 c 278 § 2.]

**41.32.120 Recodified as RCW 41.50.205.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.130 Recodified as RCW 41.50.210.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.160 Recodified as RCW 41.32.025.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.170 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.190 Recodified as RCW 41.50.215.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.201 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.202 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.203 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.207 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

#### "PLAN I"

**41.32.215 Provisions applicable to plan I.** The provisions of the following sections of this subchapter shall apply only to members of plan I: RCW 41.32.240; 41.32.260; 41.32.270; 41.32.300; 41.32.330; 41.32.340; 41.32.350; 41.32.360; 41.32.366; 41.32.380; 41.32.390; 41.32.470; 41.32.480; 41.32.485; 41.32.487; 41.32.488; 41.32.4931; 41.32.4945; 41.32.497; 41.32.498; 41.32.499; 41.32.500; 41.32.510; 41.32.520; 41.32.522; 41.32.523; 41.32.530; 41.32.540; 41.32.550; 41.32.570; and 41.32.575. [1991 c 35 § 103.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.32.220 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.230 Recodified as RCW 41.50.220.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.240 Membership in system.** All teachers employed full time in the public schools shall be members of the system except alien teachers who have been granted a temporary permit to teach as exchange teachers.

A minimum of ninety days or the equivalent of ninety days of employment during a fiscal year shall be required to establish membership. A teacher shall be considered as employed full time if serving regularly for four-fifths or more of a school day or if assigned to duties which are the equivalent of four-fifths or more of a full time assignment. A teacher who is employed for less than full time service may become a member by filing an application with the retirement system, submitting satisfactory proof of teaching service and making the necessary payment before June 30 of the school year immediately following the one during which the service was rendered. [1991 c 35 § 38; 1979 ex.s. c 45 § 3; 1965 ex.s. c 81 § 3; 1963 ex.s. c 14 § 4; 1961 c 132 § 1; 1955 c 274 § 7; 1947 c 80 § 24; Rem. Supp. 1947 § 4995-43. Prior: 1941 c 97 § 3, part; 1939 c 86 § 2, part; 1937 c 221 § 4, part; 1931 c 115 § 3, part; 1923 c 187 § 10, part; Rem. Supp. 1941 § 4995-4, part.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Effective date—1979 ex.s. c 45:** See note following RCW 41.26.040.

**Severability—Effective date—1965 ex.s. c 81:** See notes following RCW 41.32.010.

**Savings—Severability—Effective date—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**Effective date—1961 c 132:** "The provisions of this act shall be effective July 1, 1961." [1961 c 132 § 8.] For codification of 1961 c 132, see Codification Tables, Volume 0.

**Eligibility for retirement allowance:** RCW 41.32.470.

**41.32.242 Recodified as RCW 41.32.032.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.243 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.2431 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.2432 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.245 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.250 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.260 Credit for military service or as state legislator.** Any member whose public school service is interrupted by active service to the United States as a

member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for that service upon presenting satisfactory proof, and contributing to the annuity fund, either in a lump sum or installments, amounts determined by the director. Except that no military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war. [1991 c 35 § 40; 1974 ex.s. c 199 § 2; 1973 1st ex.s. c 189 § 1; 1971 ex.s. c 271 § 1; 1967 c 50 § 2; 1961 c 132 § 2; 1955 c 274 § 8; 1947 c 80 § 26; Rem. Supp. 1947 § 4995-45. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 1, part; Rem. Supp. 1941 § 4995-5, part.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Emergency—Severability—1974 ex.s. c 199:** See notes following RCW 41.32.010.

**Construction—1974 ex.s. c 199:** See note following RCW 41.32.010.

**Severability—1973 1st ex.s. c 189:** See note following RCW 41.32.215.

**Parts of sections retroactive—1973 1st ex.s. c 189:** See note following RCW 41.32.498.

**Severability—1971 ex.s. c 271:** "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 271 § 17.] For codification of 1971 ex.s. c 271, see Codification Tables, Volume 0.

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

**Effective date—1961 c 132:** See note following RCW 41.32.240.

**Members' retirement contributions—Payment by employer:** RCW 41.04.445.

**41.32.263 State legislators and state officials eligible for retirement benefits.** A member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his or her salary in the amount of seven and one-half percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he or she has by reason of his or her employment become a contributing member of another public retirement system in the state of Washington. Such elected official who has retired or otherwise terminated his or her public school service may then elect to terminate his or her membership in the retirement system and receive retirement benefits while continuing to serve as an elected official. A member of the retirement system who had previous service as an elected or appointed official, for which he or she did not contribute to the retirement system, may receive credit for such legislative service unless he or she has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees. [1991 c 35 § 41.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.32.265 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.270 Teaching service, how credited.** Service rendered for four-fifths or more of the official school year of the school district or institution in which a teacher is employed shall be credited as a year's service regardless of the length of the school term, but in no case shall more than one year of service be creditable for service rendered in one fiscal year. Service rendered for less than four-fifths of the official school year shall be credited for that portion of the school year for which it was rendered: PROVIDED, That no service of less than twenty days in any school year shall be creditable. [1947 c 80 § 27; Rem. Supp. 1947 § 4995-46. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

**41.32.280 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.290 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.300 Limitation on credit for out-of-state service.** (1) Henceforth a total of not more than four years of service outside of the state shall be credited to a member who establishes or reestablishes credit for out-of-state public school employment in this state subsequent to July 1, 1961. Foreign public school teaching service shall be creditable as out-of-state service.

(2) No out-of-state service credit shall be established or reestablished subsequent to July 1, 1964, except that a member who has been granted official leave of absence by his or her employer may, upon return to public school service in this state, establish out-of-state membership service credit, within the limitations of this section and conditioned upon satisfactory proof and upon contributions to the annuity fund, for public school service rendered in another state or in another country.

(3) No member who establishes out-of-state service credit after July 1, 1947, shall at retirement for pension payment purposes be allowed credit for out-of-state service in excess of the number of years credit which he or she shall have earned in the public schools of the state of Washington. [1991 c 35 § 42; 1963 ex.s. c 14 § 5; 1961 c 132 § 7; 1955 c 274 § 11; 1947 c 80 § 30; Rem. Supp. 1947 § 4995-49.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Savings—Severability—Effective date—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**Effective date—1961 c 132:** See note following RCW 41.32.240.

**41.32.310 Time limit for claiming service credit—Payments.** (1) Any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments on or before June 30 of the fifth school year of membership. Payments covering

all types of membership service credit must be made in a lump sum when due, or in annual installments. The first annual installment of at least twenty percent of the amount due must be paid before the above deadline date, and the final payment must be made by June 30th of the fourth school year following that in which the first installment was made. The amount of payment and the interest thereon, whether lump sum or installments, shall be made by a method and in an amount established by the department.

(2) A member who had the opportunity under chapter 41.32 RCW prior to July 1, 1969, to establish credit for active United States military service or credit for professional preparation and failed to do so shall be permitted to establish additional credit within the provisions of RCW 41.32.260 and 41.32.330. A member who was not permitted to establish credit pursuant to section 2, chapter 32, Laws of 1973 2nd ex. sess., for Washington teaching service previously rendered, must present proof and make the necessary payment to establish such credit as membership service credit. Payment for such credit must be made in a lump sum on or before June 30, 1974. Any member desiring to establish credit under the provisions of \*this 1969 amendment must present proof and make the necessary payment before June 30, 1974; or, if not employed on the effective date of this amendment, before June 30th of the fifth school year upon returning to public school employment in this state. [1991 c 35 § 43; 1974 ex.s. c 193 § 1; 1973 2nd ex.s. c 32 § 2; 1969 ex.s. c 150 § 9; 1965 ex.s. c 81 § 8; 1955 c 274 § 12; 1947 c 80 § 31; Rem. Supp. 1947 § 4995-50.]

**Reviser's note:** (1) This section was also decodified by 1991 c 35 § 4 without cognizance of its amendment by 1991 c 35 § 43.

(2) "this 1969 amendment" added the last proviso to this section relating to the establishment of military service credit.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Emergency—1974 ex.s. c 193:** "This amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 193 § 10.]

**Severability—1974 ex.s. c 193:** "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 193 § 9.]

The foregoing annotations apply to 1974 ex.s. c 193. For codification of that act, see Codification Tables, Volume 0.

**Emergency—1973 2nd ex.s. c 32:** "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1973 2nd ex.s. c 32 § 7.]

**Severability—1973 2nd ex.s. c 32:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 2nd ex.s. c 32 § 6.]

The two foregoing annotations apply to 1973 2nd ex.s. c 32. For codification of that act, see Codification Tables, Volume 0.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**41.32.320 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.330 Credit for professional preparation subsequent to becoming teacher.** The department may allow credit for professional preparation to a member for attendance at institutions of higher learning, or for a scholarship or grant under an established foundation, subsequent to becoming a public school teacher; but not more than two years of such credit may be granted to any member. [1991 c 35 § 44; 1969 ex.s. c 150 § 10; 1955 c 274 § 14; 1947 c 80 § 33; Rem. Supp. 1947 § 4995-52.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**41.32.340 Creditable service, what to consist of.** Creditable service of a member at retirement shall consist of the membership service rendered for which credit has been allowed, and also, if a prior service certificate is in full force and effect, the amount of the service certified on the prior service certificate. No pension payments shall be made for service credits established or reestablished after July 1, 1955, if such credits entitle the member to retirement benefits from any other public state or local retirement system or fund. No pension payments shall be made for service credits established or reestablished after July 1, 1961, if such credits entitle the member to retirement benefits from a public federal retirement system or fund for services rendered under a civilian program: PROVIDED, That no pension payments shall be made for service credits established or reestablished after July 1, 1969, if credit for the same service is retained for benefits under any other retirement system or fund. [1991 c 35 § 45; 1969 ex.s. c 150 § 11; 1961 c 132 § 3; 1955 c 274 § 15; 1947 c 80 § 34; Rem. Supp. 1947 § 4995-53. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**41.32.345 "Earnable compensation" defined for certain part-time employees—Adoption of rules.** (1) Subject to the limitations contained in this section, for the purposes of RCW 41.32.010(11)(a)(ii), earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay

which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter 28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right. [1990 c 33 § 570; 1987 c 265 § 2. Formerly RCW 41.32.011.]

**Purpose**—**Statutory references**—**Severability**—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

**41.32.350 Purchase of additional annuity.** A member may make an additional lump sum payment at date of retirement, not to exceed the member's accumulated contributions, to purchase additional annuity. A contribution of six percent of earnable compensation is required from each member, except as provided under RCW 41.32.013. [1991 c 35 § 46; 1990 c 274 § 7; 1973 1st ex.s. c 189 § 6; 1963 ex.s. c 14 § 7; 1955 c 274 § 16; 1947 c 80 § 35; Rem. Supp. 1947 § 4995-54. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1931 c 115 § 4, part; 1923 c 115 § 11, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Findings**—**Effective date**—**Construction**—1990 c 274: See notes following RCW 41.32.010.

**Severability**—1973 1st ex.s. c 189: See note following RCW 41.50.215.

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**Members' retirement contributions**—**Payment by employer**: RCW 41.04.445.

**41.32.360 Basis of contributions to disability reserve fund.** For each year of employment, each member who is employed on a full time basis shall have transferred from his or her contributions a sum determined by the director, in accordance with the recommendations of the state actuary, to maintain a fund sufficient, with regular interest, to provide temporary disability benefits for the members whose claims will be approved by the department in accordance with the provisions of RCW 41.32.540. These transfers shall be placed in the disability reserve fund. [1991 c 35 § 47; 1963 ex.s. c 14 § 8; 1955 c 274 § 17; 1947 c 80 § 36; Rem. Supp. 1947 § 4995-55. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.365 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.366 Basis of contributions to death benefit fund.** During each fiscal year that a member is employed on a full time basis, the department shall transfer from the member's contributions a sum that will, with regular interest, maintain a fund sufficient according to actuarial rates adopted by the department to pay the death benefits as provided for in this chapter. [1991 c 35 § 48; 1963 ex.s. c 14 § 10.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.380 Source of pension reserve fund—Contributions.** There shall be placed in the pension reserve fund all appropriations made by the legislature for the purpose of paying pensions and survivors' benefits and of establishing and maintaining an actuarial reserve and all gifts and bequests to the pension reserve fund, and contributions of persons entering the retirement system who have established prior service credit. Members establishing prior service credit shall contribute to the pension reserve fund as follows:

For the first ten years of prior service fifteen dollars per year;

For the second ten years of prior service thirty dollars per year;

For the third ten years of prior service forty-five dollars per year. [1982 1st ex.s. c 52 § 8; 1947 c 80 § 38; Rem. Supp. 1947 § 4995–57.]

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**41.32.390 Contributions for prior service credits.** At least twenty percent of the total amount due for prior service credit must be paid before an application for credit may be presented to the department for approval. The balance is not due until date of retirement and may be paid at that time without additional charge. Any unpaid installments at the time the member is retired for service or disability shall constitute a first, paramount, and prior lien against his or her retirement allowance. [1991 c 35 § 49; 1955 c 274 § 18; 1947 c 80 § 39; Rem. Supp. 1947 § 4995–58. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995–6, part.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.32.401 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.403 Recodified as RCW 41.32.035.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.405 Recodified as RCW 41.50.225.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.420 Recodified as RCW 41.50.230.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.430 Recodified as RCW 41.50.235.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.440 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.460 Recodified as RCW 41.32.042.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.470 Eligibility for retirement allowance.** A member must have established or reestablished with the retirement system at least five years of credit for public school service in this state to be entitled to a retirement allowance. [1965 ex.s. c 81 § 4; 1963 ex.s. c 14 § 15; 1947 c 80 § 47; Rem. Supp. 1947 § 4995–66. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995–8, part.]

**Severability**—**Effective date**—1965 ex.s. c 81: See notes following RCW 41.32.010.

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.480 Qualifications for retirement.** (1) Any member who has left public school service after having completed thirty years of creditable service may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. Effective July 1, 1967, anyone then receiving a retirement allowance or a survivor retirement allowance under this chapter, based on thirty-five years of creditable service, and who has established more than thirty-five years of service credit with the retirement system, shall thereafter receive a retirement allowance based on the total years of service credit established.

(2) Any member who has attained age sixty years, but who has completed less than thirty years of creditable service, upon leaving public school service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his

or her age of retirement and a pension as provided in RCW 41.32.497.

(3) Any member who has attained age fifty-five years and who has completed not less than twenty-five years of creditable service, upon leaving public school service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. An individual who has retired pursuant to this subsection, on or after July 1, 1969, shall not suffer an actuarial reduction in his or her retirement allowance, except as the allowance may be actuarially reduced pursuant to the options contained in RCW 41.32.530. \*This 1974 amendment shall be retroactive to July 1, 1969. [1991 c 35 § 53; 1974 ex.s. c 193 § 2; 1972 ex.s. c 147 § 1; 1970 ex.s. c 35 § 2; 1969 ex.s. c 150 § 14; 1967 c 151 § 1; 1955 c 274 § 21; 1947 c 80 § 48; Rem. Supp. 1947 § 4995-67. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

\*Reviser's note: "this 1974 amendment" consisted of the addition of what are now the third and fourth sentences in subsection (3) above.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency**—**Severability**—1974 ex.s. c 193: See notes following RCW 41.32.310.

**Effective date**—1972 ex.s. c 147: "The effective date of this 1972 amendatory act shall be July 1, 1972." [1972 ex.s. c 147 § 9.]

**Severability**—1972 ex.s. c 147: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 147 § 10.]

**Effective date**—1970 ex.s. c 35: "The provisions of sections 1 through 5 and 7 of this 1970 amendatory act shall take effect on July 1, 1970; the provisions of section 6 of this 1970 amendatory act shall be effective on the date chapter 223, Laws of 1969 ex. sess. becomes effective [July 1, 1970], at which time section 5 of this 1970 amendatory act shall be void and of no effect." [1970 ex.s. c 35 § 8.] For codification of 1970 ex.s. c 35, see Codification Tables, Volume 0.

**Severability**—1970 ex.s. c 35: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 35 § 9.]

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**Effective date**—1967 c 151: "This act shall become effective on July 1, 1967." [1967 c 151 § 9.]

**Severability**—1967 c 151: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected." [1967 c 151 § 8.]

The two foregoing annotations apply to 1967 c 151. For codification of that act, see Codification Tables, Volume 0.

**41.32.485 Minimum retirement allowance—Cost-of-living adjustment—Post-retirement adjustment—Computation.** (1) Notwithstanding any provision of law to the contrary, effective July 1, 1989, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than fourteen dollars and eighty-two cents per month for

each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by fourteen dollars and eighty-two cents. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 41.32.520 or 41.32.550 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 41.32.499(6) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

(3) The provisions of subsections (1) and (2) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.32.540 or 41.32.760 through 41.32.825. [1989 c 272 § 5; 1987 c 455 § 1; 1986 c 306 § 2; 1979 ex.s. c 96 § 2.]

**Purpose**—1989 c 272: See note following RCW 41.40.325.

**Effective date**—1987 c 455: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 455 § 9.]

**Effective date**—1986 c 306: "This act shall take effect on July 1, 1986." [1986 c 306 § 5.]

**41.32.486 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.487 Minimum retirement allowance—Annual cost-of-living adjustment.** Beginning July 1, 1989, and every year thereafter, the department shall determine the following information for the minimum retirement allowance provided by RCW 41.32.485(1):

(1) The dollar amount of the minimum retirement allowance as of July 1, 1989, after the increase provided in section 5, chapter 272, Laws of 1989;

(2) The index for the 1987 calendar year, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the minimum retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the minimum retirement allowance as of July 1, 1989;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1989 c 272 § 6; 1987 c 455 § 3.]

**Purpose**—1989 c 272: See note following RCW 41.40.325.

**Effective date**—1987 c 455: See note following RCW 41.32.485.

**41.32.488 Annual cost-of-living adjustment not contractual entitlement.** The legislature reserves the right to amend or repeal RCW 41.32.487 and 41.40.1981 in the future and no member or retiree has a contractual right to receive any cost-of-living adjustments not granted prior to that time. [1987 c 455 § 5.]

**Effective date**—1987 c 455: See note following RCW 41.32.485.

**41.32.491 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.492 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.493 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.4931 Additional special pension for former members not receiving social security.** (1) The benefits provided under subsection (2) of this section shall be available only to former members who have reached age sixty-five or are disabled for further public school service and are not receiving federal old age, survivors or disability benefit payments (social security) and are not able to qualify for such benefits.

(2) Effective July 1, 1987, former members who receive the minimum retirement allowance provided by RCW 41.32.485(1) and who meet the requirements of subsection (1) of this section shall receive an additional

special pension of ten dollars per month per year of service credit. [1987 c 455 § 6; 1973 2nd ex.s. c 32 § 3; 1967 c 151 § 6.]

**Effective date**—1987 c 455: See note following RCW 41.32.485.

**Emergency—Severability**—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

**Effective date—Severability**—1967 c 151: See notes following RCW 41.32.480.

**41.32.4932 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.494 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.4943 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.4944 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.4945 Limitation as to earnable compensation of member as member of the legislature.** Notwithstanding any other provision of RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and this section, when the salary of any member as a member of the legislature is increased beyond the amount provided for in Initiative Measure No. 282 then earnable compensation for the purposes of this chapter shall be based solely on the sum of (1) the compensation actually received from the salary for the job from which such leave of absence may have been taken and (2) such member's salary as a legislator during the two highest compensated consecutive years. [1991 c 35 § 54; 1974 ex.s. c 199 § 6.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency—Severability—Construction**—1974 ex.s. c 199: See notes following RCW 41.32.010.

**41.32.497 Retirement allowance for members entering system before April 25, 1973—Election.** Any person who became a member on or before April 25, 1973 and who qualifies for a retirement allowance shall, at time of retirement, make an irrevocable election to receive either the retirement allowance by RCW 41.32.498 as now or hereafter amended or to receive a retirement allowance pursuant to this section consisting of: (1) An annuity which shall be the actuarial equivalent of his accumulated contributions at his age of retirement, (2) A basic service pension of one hundred dollars per annum, and (3) A service pension which shall be equal to one one-hundredth of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system: PROVIDED, That no beneficiary now receiving benefits or who receives benefits in the future, except those beneficiaries receiving reduced benefits pursuant to \*RCW 41.32.520(1) or 41.32.530, shall receive a pension of less than six dollars

and fifty cents per month for each year of creditable service established with the retirement system. Pension benefits payable under the provisions of this section shall be prorated on a monthly basis and paid at the end of each month. [1990 c 249 § 12; 1974 ex.s. c 199 § 3; 1973 1st ex.s. c 189 § 2; 1970 ex.s. c 35 § 3; 1969 ex.s. c 150 § 15; 1963 ex.s. c 14 § 16.]

**\*Reviser's note:** RCW 41.32.520(1) was renumbered as RCW 41.32.520(1)(a) by 1990 c 249 § 15.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Emergency—Severability—Construction—1974 ex.s. c 199:** See notes following RCW 41.32.010.

**Severability—1973 1st ex.s. c 189:** See note following RCW 41.50.215.

**Parts of sections retroactive—1973 1st ex.s. c 189:** See note following RCW 41.32.498.

**Effective date—Severability—1970 ex.s. c 35:** See notes following RCW 41.32.480.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**Savings—Severability—Effective date—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**41.32.498 Retirement allowance for members entering system after April 25, 1973 or in lieu of allowance under RCW 41.32.497.** Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive the benefit provided by this section, shall receive a retirement allowance consisting of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions on full salary as provided by chapter 274, Laws of 1955 and his or her lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his or her average earnable compensation for his or her two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: PROVIDED, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his accumulated contributions and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: PROVIDED FURTHER, That no member may withdraw an amount of accumulated contributions which would lower his or her retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said reduced amount may be reduced even further pursuant to the options provided in RCW 41.32.530;

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year

of such service. [1991 c 35 § 55; 1990 c 249 § 4; 1988 c 116 § 1; 1987 c 143 § 1; 1974 ex.s. c 199 § 4; 1973 1st ex.s. c 189 § 3.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—1988 c 116:** "This act shall take effect June 30, 1988." [1988 c 116 § 2.]

**Emergency—Severability—Construction—1974 ex.s. c 199:** See notes following RCW 41.32.010.

**Parts of sections as retroactive—1973 1st ex.s. c 189:** "Subsection (3) of section 3 of this 1973 amendatory act and the equivalent language contained in the last proviso in section 1 of this 1973 amendatory act, relating to elected and appointed officials, shall be retroactive to January 1, 1973." [1973 1st ex.s. c 189 § 4.]

**Reviser's note:** The reference to "subsection (3) of section 3" appears to be erroneous. Section 13 of the original bill (House Bill No. 419) referred to equivalent language in subsection (3) of section 12 and the last proviso in section 4, amending RCW 41.32.497. The language referred to in section 4 remains in section 2 of the final bill which amends RCW 41.32.497, but was deleted by senate committee amendment from section 3 (formerly section 12 of the original bill) of the engrossed substitute bill, codified herein as RCW 41.32.498.

**Severability—1973 1st ex.s. c 189:** See note following RCW 41.50.215.

**41.32.499 Service retirement allowance adjustments based on cost-of-living factors.** (1) "Index" for the purposes of this section shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957–1959 equal one hundred)—compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Cost-of-living factor" for the purposes of this section for any year shall mean the ratio of the index for the previous year to the index for the year preceding the initial date of payment of the retirement allowance, except that, in no event, shall the cost-of-living factor, for any year subsequent to 1971, be

(a) less than 1.000;

(b) more than one hundred three percent or less than ninety-seven percent of the previous year's cost-of-living factor; or

(c) such as to yield a retirement allowance, for any individual, less than that which was in effect July 1, 1972;

(3) The "initial date of payment" for the purposes of adjusting the annuity portion of a retirement allowance for the purposes of this section shall mean the date of retirement of a member.

(4) The "initial date of payment" for the purposes of adjusting the pension portion of a retirement allowance for the purposes of this section shall mean the date of retirement of a member or July 1, 1972, whichever is later: PROVIDED, That \*this 1973 amendment to this subsection shall be retroactive to July 1, 1973.

(5) Each service retirement allowance payable from July 1, 1973, until any subsequent adjustment pursuant to subsection (6) of this section shall be adjusted so as to equal the product of the cost-of-living factor for 1973 and the amount of the retirement allowance on the initial date of payment.

(6) Each service retirement allowance payable from July 1st of any year after 1973 until any subsequent adjustment pursuant to this subsection shall be adjusted so

as to equal the product of the cost-of-living factor for the year and the amount of the retirement allowance on the initial date of payment: PROVIDED, That the director finds, at his or her sole discretion, that the cost of the adjustments shall have been met by the excess of the growth in the assets of the system over that required for meeting the actuarial liabilities of the system at that time. [1991 c 35 § 56; 1973 2nd ex.s. c 32 § 1; 1973 1st ex.s. c 189 § 9.]

\*Reviser's note: "this 1973 amendment" changed the date in subsection (4) from "June 30, 1970" to "July 1, 1972", as appears above.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency**—**Severability**—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

**Severability**—1973 1st ex.s. c 189: See note following RCW 41.50.215.

**41.32.500 Termination of membership—When membership may be retained—Resumption of employment and restoration of service credit.** (1) Membership in the retirement system is terminated when a member retires for service or disability, dies, withdraws the accumulated contributions or does not establish service credit with the retirement system for five consecutive years; however, a member may retain membership in the teachers' retirement system by leaving the accumulated contributions in the teachers' retirement fund under one of the following conditions:

- (a) If he or she is eligible for retirement;
- (b) If he or she is a member of another public retirement system in the state of Washington by reason of change in employment and has arranged to have membership extended during the period of such employment;
- (c) If he or she is not eligible for retirement but has established five or more years of Washington membership service credit.

The prior service certificate becomes void when a member dies, withdraws the accumulated contributions or does not establish service credit with the retirement system for five consecutive years, and any prior administrative interpretation of the board of trustees, consistent with this section, is hereby ratified, affirmed and approved.

(2) Any member, except an elected official, who reentered service and who failed to restore withdrawn contributions, shall now have from April 4, 1986, through June 30, 1987, to restore the contributions, with interest as determined by the director.

(3) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file. [1991 c 35 § 57; 1986 c 317 § 2; 1983 c 233 § 1; 1974 ex.s. c 193 § 3; 1969 ex.s. c 150 § 16; 1967 c 50 § 6; 1965 ex.s. c 81 § 5; 1955 c 274 § 23; 1947 c 80 § 50; Rem. Supp. 1947 § 4995-69.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Legislative findings**—**Intent**—**Severability**—1986 c 317: See notes following RCW 41.40.150.

**Severability**—1983 c 233: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 233 § 4.]

**Emergency**—**Severability**—1974 ex.s. c 193: See notes following RCW 41.32.310.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

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

**Effective date**—**Severability**—1965 ex.s. c 81: See notes following RCW 41.32.010.

**41.32.510 Payment on withdrawal—Reentry.** Should a member cease to be employed by an employer and request upon a form provided by the department a refund of the member's accumulated contributions with interest, this amount shall be paid to the individual less any withdrawal fee which may be assessed by the director which shall be deposited in the department of retirement systems expense fund. The amount withdrawn, together with interest as determined by the director must be paid if the member desires to reestablish the former service credits. Termination of employment with one employer for the specific purpose of accepting employment with another employer or termination with one employer and reemployment with the same employer, whether for the same school year or for the ensuing school year, shall not qualify a member for a refund of the member's accumulated contributions. A member who files an application for a refund of the member's accumulated contributions and subsequently enters into a contract for or resumes public school employment before a refund payment has been made shall not be eligible for such payment. [1982 1st ex.s. c 52 § 15; 1969 ex.s. c 150 § 17; 1963 ex.s. c 14 § 17; 1955 c 274 § 24; 1947 c 80 § 51; Rem. Supp. 1947 § 4995-70. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.]

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.520 Payment on death before retirement.** (1) Upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated

contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

(3) Under survivors' benefit plan (1)(a) the department shall transfer to the survivors' benefit fund the accumulated contributions of the deceased member together with an amount from the pension fund determined by actuarial tables to be sufficient to fully fund the liability. Benefits shall be paid from the survivors' benefit fund monthly and terminated at the marriage of the beneficiary. [1991 c 365 § 29; 1991 c 35 § 58; 1990 c 249 § 15; 1974 ex.s. c 193 § 5; 1973 2nd ex.s. c 32 § 4; 1973 1st ex.s. c 154 § 76; 1967 c 50 § 7; 1965 ex.s. c 81

§ 6; 1957 c 183 § 3; 1955 c 274 § 25; 1947 c 80 § 52; Rem. Supp. 1947 § 4995-71. Prior: 1941 c 97 § 6; 1939 c 86 § 6; 1937 c 221 § 7; 1923 c 187 § 22; 1917 c 163 § 21; Rem. Supp. 1941 § 4995-7.]

**Reviser's note:** This section was amended by 1991 c 35 § 58 and by 1991 c 365 § 29, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Emergency—Severability—1974 ex.s. c 193:** See notes following RCW 41.32.310.

**Emergency—Severability—1973 2nd ex.s. c 32:** See notes following RCW 41.32.310.

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

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

**Effective date—Severability—1965 ex.s. c 81:** See notes following RCW 41.32.010.

**Severability—1957 c 183:** See RCW 41.33.900.

**41.32.522 Death benefits.** (1) A death benefit of six hundred dollars shall be paid from the death benefit fund to a member's estate or to the persons the member nominates by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of death of the member if he or she:

(a) Was employed on a full time basis and who contributed to the death benefit fund during the fiscal year in which his or her death occurs;

(b) Was under contract for full time employment in a Washington public school for the fiscal year immediately following the year in which such contribution to the death fund was made;

(c) Submits an application for a retirement allowance to be approved by the department immediately following termination of his or her full-time Washington public school service and who dies before the first installment of his or her retirement allowance becomes due;

(d) Is receiving or is entitled to receive temporary disability payments; or

(e) Upon becoming eligible for a disability retirement allowance submits an application for an allowance to be approved by the department immediately following the date of his or her eligibility for a disability retirement allowance and dies before the first installment of such allowance becomes due.

(2) In order to receive a death benefit under this section a deceased member:

(a) Must have established at least one year of credit with the retirement system for full time Washington membership service. A member's contribution to the death benefit fund for a given fiscal year qualifies the member for the death benefit in the event his or her death occurs before the beginning of the ensuing school year;

(b) Who was not employed full time in Washington public school service during the fiscal year immediately preceding the year of his or her death must have been

employed full time in Washington public school service for at least fifty consecutive days during the fiscal year of his or her death. [1991 c 35 § 59; 1974 ex.s. c 193 § 4; 1969 ex.s. c 150 § 18; 1967 c 50 § 8; 1963 ex.s. c 14 § 20.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency**—**Severability**—1974 ex.s. c 193: See notes following RCW 41.32.310.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

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

**Savings**—**Effective date**—**Severability**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.523 Death benefits**—**Members not qualified for benefits under RCW 41.32.522 and retired former members.** Upon receipt of proper proof of death of a member who does not qualify for the death benefit of six hundred dollars under RCW 41.32.522, or a former member who was retired for age, service, or disability, a death benefit of four hundred dollars shall be paid from the death benefit fund to the member's estate or to the persons as he or she shall have nominated by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520: **PROVIDED**, That the member or the retired former member had established not less than ten years of credit with the retirement system for full time Washington membership service. [1991 c 35 § 60; 1974 ex.s. c 193 § 6; 1969 ex.s. c 150 § 19; 1967 c 50 § 9; 1965 ex.s. c 81 § 7; 1963 ex.s. c 14 § 21.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency**—**Severability**—1974 ex.s. c 193: See notes following RCW 41.32.310.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

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

**Savings**—**Effective date**—**Severability**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.530 Options available.** (1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department, every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her estate or to such person as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the

member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: **PROVIDED**, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 5; 1955 c 274 § 26; 1947 c 80 § 53; Rem. Supp. 1947 § 4995–72. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995–8, part.]

**Findings**—1990 c 249: See note following RCW 2.10.146.

**41.32.540 Disability allowance**—**Temporary.** Upon application of a member in service or of his or her employer or of his or her legal guardian or of the legal representative of a deceased member who was eligible to apply for a temporary disability allowance based on the final illness a member shall be granted a temporary disability allowance by the department if the medical director, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty. Any member receiving a temporary disability allowance on July 1, 1964 or who qualifies for a temporary disability allowance effective on or after July 1, 1964 shall receive a temporary disability allowance of one hundred eighty dollars per month payable from the disability reserve fund for a period not to exceed two years, but no payments shall be made for a disability period of less than

sixty days: **PROVIDED**, That a member who is not employed full time in Washington public school service for consecutive fiscal years shall have been employed for at least fifty consecutive days during the fiscal year in which he or she returns to full time Washington public school service before he or she may qualify for temporary disability benefits: **PROVIDED FURTHER**, That no temporary disability benefits shall be paid on the basis of an application received more than four calendar years after a member became eligible to apply for such benefits. [1991 c 35 § 61; 1974 ex.s. c 193 § 7; 1963 ex.s. c 14 § 18; 1959 c 37 § 1; 1955 c 274 § 27; 1947 c 80 § 54; Rem. Supp. 1947 § 4995-73. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Emergency**—**Severability**—1974 ex.s. c 193: See notes following RCW 41.32.310.

**Savings**—**Effective date**—**Severability**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.550 Options and allowances on report that disability will be permanent—Reexamination.** (1) Should the director determine from the report of the medical director that a member employed under an annual contract with an employer has become permanently disabled for the performance of his or her duties or at any time while a member is receiving temporary disability benefits that a member's disability will be permanent, a member shall have the option of then receiving (a) all of the accumulated contributions in a lump sum payment and canceling his or her membership, or (b) of accepting a retirement allowance based on service or age, if eligible under RCW 41.32.480, or (c) if the member had five or more years of Washington membership service credit established with the retirement system, a retirement allowance because of disability.

(2) Any member applying for a retirement allowance who is eligible for benefits on the basis of service or age shall receive a retirement allowance based on the provision of law governing retirement for service or age. If the member qualifies to receive a retirement allowance because of disability he or she shall be paid the maximum annuity which shall be the actuarial equivalent of the accumulated contributions at his or her age of retirement and a pension equal to the service pension to which he or she would be entitled under RCW 41.32-.497. If the member dies before he or she has received in annuity payments the present value of the accumulated contributions at the time of retirement, the unpaid balance shall be paid to the estate or to the persons nominated by written designation executed and filed with the department.

(3) A member retired for disability may be required at any time to submit to reexamination. If medical findings reveal that the individual is no longer disabled for the performance of public school service, the retirement allowance granted because of disability may be terminated by action of the director or upon written request of the member. In case of termination, the individual shall be restored to full membership in the retirement system.

[1991 1st sp.s. c 11 § 6. Prior: 1991 c 365 § 33; 1991 c 35 § 62; 1970 ex.s. c 35 § 4; 1969 ex.s. c 150 § 20; 1967 c 50 § 10; 1963 ex.s. c 14 § 19; 1961 c 132 § 4; 1959 c 37 § 2; 1955 c 274 § 28; 1947 c 80 § 55; Rem. Supp. 1947 § 4995-74; prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 8; 1923 c 187 § 18; 1917 c 163 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

**Purpose**—**Effective dates**—1991 1st sp.s. c 11: See notes following RCW 41.26.090.

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective date**—**Severability**—1970 ex.s. c 35: See notes following RCW 41.32.480.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

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

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.32.555 Persons with annual half-time contracts—Eligibility for benefits under RCW 41.32.550.** Persons who were under an annual half-time contract with an employer anytime during the period of September 1, 1986, through August 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as amended by chapter 365, Laws of 1991, if during that period they were medically determined to be permanently disabled for the performance of their duty. [1991 c 365 § 34.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**41.32.560 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.561 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.565 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.567 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.570 Suspension of pension payments.** (1) Any retired teacher who enters service in any public educational institution in Washington state shall cease to receive pension payments while engaged in such service: **PROVIDED**, That service may be rendered up to seventy-five days per school year without reduction of pension.

(2) Subsection (1) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986. [1989 c 273 § 29; 1986 c 237 § 1; 1967 c 151 § 5; 1959 c 37 § 3; 1955 c 274 § 30; 1947 c 80 § 57; Rem. Supp. 1947 § 4995-76.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Effective date—Severability—1967 c 151:** See notes following RCW 41.32.480.

**41.32.575 Cost of living adjustment—Age sixty-five allowance—Information compiled—Definitions.**

(1) Beginning July 1, 1989, and every year thereafter, the department shall determine the following information for each retired member or beneficiary who is over the age of sixty-five:

(a) The dollar amount of the retirement allowance received by the retiree at age sixty-five, to be known for the purposes of this section as the "age sixty-five allowance";

(b) The index for the calendar year prior to the year that the retiree reached age sixty-five, to be known for purposes of this section as "index A";

(c) The index for the calendar year prior to the date of determination, to be known for purposes of this section as "index B";

(d) The ratio obtained when index B is divided by index A, to be known for the purposes of this section as the "full purchasing power ratio"; and

(e) The value obtained when the retiree's age sixty-five allowance is multiplied by sixty percent of the retiree's full purchasing power ratio, to be known for the purposes of this section as the "target benefit."

(2) Beginning with the July payment, the retiree's age sixty-five allowance shall be adjusted to be equal to the retiree's target benefit. In no event, however, shall the adjusted allowance:

(a) Be smaller than the retirement allowance received without the adjustment; nor

(b) Differ from the previous year's allowance by more than three percent.

(3) For members who retire after age sixty-five, the age sixty-five allowance shall be the initial retirement allowance received by the member.

(4) For beneficiaries of members who die prior to age sixty-five: (a) The age sixty-five allowance shall be the allowance received by the beneficiary on the date the member would have turned age sixty-five; and (b) index A shall be the index for the calendar year prior to the year the member would have turned age sixty-five.

(5) Where the pension payable to a beneficiary was adjusted at the time the benefit commenced, the benefit provided by this section shall be adjusted in a manner consistent with the adjustment made to the beneficiary's pension.

(6) For the purposes of this section:

(a) "Index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor;

(b) "Retired member" or "retiree" means any member who has retired for service or because of duty or nonduty disability, or the surviving beneficiary of such a member. [1989 c 272 § 3.]

**Purpose—1989 c 272:** See note following RCW 41.40.325.

**41.32.580 Recodified as RCW 41.32.044.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.583 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.590 Recodified as RCW 41.32.052.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.600 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.610 Appeal by claimant.**

**Reviser's note:** RCW 41.32.610 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.620 Appeal by five members.**

**Reviser's note:** RCW 41.32.620 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.630 Transcript and papers to superior court.**

**Reviser's note:** RCW 41.32.630 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

**41.32.650 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.670 Recodified as RCW 41.32.055.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**"PLAN II"**

**41.32.700 Provisions applicable to plan II.** The provisions of the following sections of this subchapter shall apply only to members of plan II: RCW 41.32.755; 41.32.760; 41.32.762; 41.32.765; 41.32.770; 41.32.775; 41.32.780; 41.32.785; 41.32.790; 41.32.795; 41.32.800; 41.32.805; 41.32.810; 41.32.815; 41.32.820; and 41.32.825. [1991 c 35 § 104.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.32.750 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.755 Application to certain persons.** RCW 41.32.760 through 41.32.825 shall apply only to those persons who are initially employed by an employer on or after October 1, 1977. [1977 ex.s. c 293 § 2.]

**Effective date**—1977 ex.s. c 293: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977." [1977 ex.s. c 293 § 23.]

**Severability**—1977 ex.s. c 293: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 293 § 22.]

**Legislative direction and placement**—1977 ex.s. c 293: "Sections 1 through 17 of this 1977 amendatory act shall be added to chapter 41.32 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 293 § 21.]

**Section headings**—1977 ex.s. c 293: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 293 § 20.]

The foregoing annotations apply to 1977 ex.s. c 293. For codification of that act, see Codification Tables, Volume 0.

#### 41.32.760 Computation of the retirement allowance.

A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service. [1977 ex.s. c 293 § 3.]

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.762 Lump sum retirement allowance**—**Re-entry**—**Limitation.** (1) On or after June 10, 1982, the director may pay a beneficiary, as defined in \*RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.32.760 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, as defined in \*RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status as defined in \*RCW 41.04.040(2) reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.32.760 or an earned

disability allowance under RCW 41.32.790 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1982 c 144 § 2.]

\*Reviser's note: RCW 41.04.040 was repealed by 1989 c 273 § 30.

**41.32.765 Retirement for service.** (1) **NORMAL RETIREMENT.** Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1991 c 343 § 5; 1977 ex.s. c 293 § 4.]

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.770 Post-retirement cost-of-living.** Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 293 § 5.]

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.775 Employer and member contributions.** The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary: PROVIDED, That the employer contribution shall be contributed as provided in \*RCW 41.32.403. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan II fund from the total employer contributions collected under \*RCW 41.32.403.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members earnable compensation each payroll period, except as provided in RCW 41.32.013. The members contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends and the employers contribution shall be remitted as provided by law. [1990 c 274 § 9; 1989 c 273 § 19; 1986 c 268 § 2; 1984 c 184 § 11; 1977 ex.s. c 293 § 6.]

**\*Reviser's note:** RCW 41.32.403 was recodified as RCW 41.32.035 pursuant to 1991 c 35 § 9.

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**Members' retirement contributions—Payment by employer:** RCW 41.04.445.

**41.32.780 Teachers required to be members.** All teachers who become employed by an employer in an eligible position on or after October 1, 1977, shall be members of the retirement system and shall be governed by the provisions of RCW 41.32.755 through 41.32.825.

[1991 c 35 § 67; 1990 c 274 § 15; 1979 ex.s. c 45 § 5; 1977 ex.s. c 293 § 7.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15:** See note following RCW 41.40.690.

**Effective date—1979 ex.s. c 45:** See note following RCW 41.26.040.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.785 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 6; 1977 ex.s. c 293 § 8.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.790 Earned disability allowance—Eligibility—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.32.755 through 41.32.825. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.760 and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1991 c 35 § 68; 1990 c 249 § 20; 1989 c 191 § 2; 1977 ex.s. c 293 § 9.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.795 Application for and effective date of retirement allowances.** Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.765, 41.32.790, or 41.32.805 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.32.765 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.765, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.32.790 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.32.805 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 293 § 10.]

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.800 Suspension of retirement allowance upon reemployment—Reinstatement.** (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section. [1990 c 274 § 13; 1977 ex.s. c 293 § 11.]

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.805 Death benefits.** (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service

dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**Findings**—1990 c 249: See note following RCW 2.10.146.

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.810 Service credit for authorized leave of absence.** A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.32.755 through 41.32.825.

A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes

both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: PROVIDED, That for the purpose of this subsection [section] the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.32.775. The contributions required shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1977 ex.s. c 293 § 13.]

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.812 Service credit for half-time employment from October 1, 1977, through December 31, 1986.** The department of retirement systems shall credit at least one-half service credit month for each month of each school year, as defined by RCW 28A.150.040, from October 1, 1977, through December 31, 1986, to a member of the teachers' retirement system plan II who was employed by an employer, as defined by RCW 41.32.010(12), under a contract for half-time employment as determined by the department for such school year and from whose compensation contributions were paid by the employee or picked up by the employer. Any withdrawn contributions shall be restored under RCW 41.32.500(1) prior to crediting any service. [1991 c 343 § 12.]

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**41.32.815 Vested membership.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.32.765 if such member maintains the member's accumulated contributions intact. [1977 ex.s. c 293 § 14.]

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.820 Refund of contributions on termination.** A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and

subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate membership and all benefits under the provisions of RCW 41.32.755 through 41.32.825. [1988 c 117 § 1; 1982 1st ex.s. c 52 § 17; 1977 ex.s. c 293 § 15.]

**Effective date**—1988 c 117: "This act shall take effect July 1, 1988." [1988 c 117 § 3.]

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**Effective date**—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.825 Reentry.** A member, who had left service and withdrawn the member's accumulated contributions, shall, upon reestablishment of membership under RCW 41.32.240, receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department. The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1988 c 117 § 2; 1977 ex.s. c 293 § 16.]

**Effective date**—1988 c 117: See note following RCW 41.32.820.

**Effective date**—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.32.830 Recodified as RCW 41.50.240.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.32.850 Recodified as RCW 41.32.062.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## Chapter 41.40

### WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### Sections

#### "PROVISIONS APPLICABLE TO PLAN I AND PLAN II"

41.40.005	Provisions applicable to "plan I" and "plan II."
41.40.010	Terms defined.
41.40.011	Decodified.
41.40.020	System created—Administration.
41.40.022	Decodified.
41.40.023	Membership.
41.40.028	Nonelective position employees employed for at least nine months—Deemed in eligible position, when.
41.40.032	Information furnished by employees, appointive and elective officials.
41.40.035	Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials.
41.40.038	Duty disability retirement recipients—Continued service credit.
41.40.042	Members agree to deductions.
41.40.045	Employer's additional contribution.
41.40.048	Employer's contribution—Computation—Billing.
41.40.052	Exemption from taxation and judicial process—Exemptions—Assignability—Deductions authorized.

41.40.055	Penalty for false statements.
41.40.058	Transfer of service credit from state-wide city employees' retirement system.
41.40.062	Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system.
41.40.068	Hearing prior to appeal—Required—Notice.
41.40.072	Repealed.
41.40.073	Hearing prior to appeal—Conduct.
41.40.075	Repealed.
41.40.077	Repealed.
41.40.078	Judicial review in accordance with Administrative Procedure Act.
41.40.080	Recodified as RCW 41.50.250.
41.40.082	Appeal—No bond required.
41.40.083	Recodified as RCW 41.50.255.
41.40.088	School district employees—Service credit—Computation provisions.
41.40.090	Repealed.
41.40.092	Transfer of cadet service credit to Washington state patrol retirement system.
41.40.095	Transfer of membership from judicial retirement system.
41.40.098	Transfer of former service from judicial retirement system.
41.40.100	Recodified as RCW 41.50.260.
41.40.102	Effect of certain accumulated vacation leave on retirement benefits.
41.40.105	Chapter not applicable to officers and employees of state convention and trade center.
41.40.108	Higher education classified employees—Membership in the public employees' retirement system.
41.40.110	Recodified as RCW 41.50.265.
41.40.112	Chapter not applicable to employees of Seattle Vocational Institute.
41.40.120	Recodified as RCW 41.40.023.
41.40.123	Recodified as RCW 41.40.028.
41.40.130	Recodified as RCW 41.40.032.
41.40.135	Decodified.
41.40.138	Decodified.

#### "PLAN I"

41.40.145	Provisions applicable to plan I.
41.40.150	Termination of membership—Restoration of service credit—Notice.
41.40.155	Repealed.
41.40.160	Creditable service.
41.40.165	Recodified as RCW 41.40.035.
41.40.170	Credit for military service.
41.40.180	Retirement—Length of service.
41.40.185	Retirement allowances—Members retiring after February 25, 1972.
41.40.188	Retirement allowance—Options.
41.40.190	Retirement allowance—In lieu of allowance provided in RCW 41.40.185.
41.40.193	Dates upon which retirement allowances accrue.
41.40.195	Adjustment in pension portion of service retirement allowance for prior pensions.
41.40.198	Minimum retirement allowance—Computation.
41.40.1981	Minimum retirement allowance—Annual cost-of-living adjustment.
41.40.1982	Decodified.
41.40.199	Decodified.
41.40.200	Retirement for disability in line of duty—Applicability to certain judges.
41.40.210	Duty disability retirement allowance for disability after age sixty.
41.40.220	Allowance on retirement for duty disability—Before sixty.
41.40.223	Recodified as RCW 41.40.038.
41.40.225	Decodified.
41.40.230	Nonduty disability—Applicability to certain judges.
41.40.235	Nonduty disability retirement allowance—Amount—Maximum—Death benefit.
41.40.250	Allowance on retirement for nonduty disability—Election.

41.40.260	Withdrawal from system—Refund of contributions—Waiver of allowance, when.
41.40.270	Death before retirement—Payment of contributions to nominee, surviving spouse, or legal representative—Waiver of payment, effect—Benefits.
41.40.280	Department may withhold refunds of contributions.
41.40.300	Benefits offset by workers' compensation or similar benefits.
41.40.310	Periodical examination of disability beneficiaries—Benefits upon resumption of gainful employment.
41.40.320	Disability beneficiary—Restoration to service.
41.40.325	Cost of living adjustment—Age sixty-five allowance—Information compiled—Definitions.
41.40.330	Contributions.
41.40.340	Recodified as RCW 41.40.042.
41.40.350	Recodified as RCW 41.50.270.
41.40.361	Recodified as RCW 41.40.045.
41.40.363	Employer's contributions—Labor guild, association or organization.
41.40.370	Recodified as RCW 41.40.048.
41.40.380	Recodified as RCW 41.40.052.
41.40.400	Recodified as RCW 41.40.055.
41.40.403	Recodified as RCW 41.40.058.
41.40.405	Decodified.
41.40.406	Decodified.
41.40.407	Decodified.
41.40.410	Recodified as RCW 41.40.062.
41.40.411	Decodified.
41.40.412	Recodified as RCW 41.40.068.
41.40.414	Recodified as RCW 41.40.073.
41.40.420	Recodified as RCW 41.40.078.
41.40.440	Recodified as RCW 41.40.082.
41.40.450	Recodified as RCW 41.40.088.
41.40.500	Decodified.
41.40.501	Decodified.
41.40.502	Decodified.
41.40.503	Decodified.
41.40.504	Decodified.
41.40.505	Decodified.
41.40.506	Decodified.
41.40.507	Decodified.
41.40.508	Repealed.
41.40.509	Decodified.
41.40.515	Decodified.
41.40.516	Decodified.
41.40.517	Decodified.
41.40.518	Decodified.
41.40.519	Decodified.
41.40.520	Decodified.
41.40.521	Decodified.
41.40.522	Decodified.
41.40.527	Decodified.
41.40.530	Recodified as RCW 41.40.092.
41.40.535	Decodified.
41.40.540	Recodified as RCW 41.40.095.
41.40.542	Recodified as RCW 41.40.098.

## "PLAN II"

41.40.600	Decodified.
41.40.605	Provisions applicable to plan II.
41.40.610	Application to certain persons.
41.40.620	Computation of the retirement allowance.
41.40.625	Lump sum retirement allowance—Reentry—Limitation.
41.40.630	Retirement for service.
41.40.640	Post-retirement cost-of-living.
41.40.650	Employer and member contributions.
41.40.660	Options for payment of retirement allowances.
41.40.670	Earned disability allowance—Applicability to certain judges—Disposition upon death of recipient.
41.40.680	Application for and effective date of retirement allowances.
41.40.690	Suspension of retirement allowance upon reemployment—Exceptions—Reinstatement.
41.40.700	Death benefits.

41.40.710	Service credit for authorized leave of absence.
41.40.720	Vested membership.
41.40.730	Refund of contributions.
41.40.740	Reentry.
41.40.800	Recodified as RCW 41.40.102.
41.40.810	Recodified as RCW 41.40.105.
41.40.900	Severability—1977 ex.s. c 295.
41.40.920	Effective date—1977 ex.s. c 295.

*Portability of public retirement benefits: Chapter 41.54 RCW.*

*Transfer of membership to judges' retirement system: RCW 2.12.100.*

## "PROVISIONS APPLICABLE TO PLAN I AND PLAN II"

**41.40.005 Provisions applicable to "plan I" and "plan II."** The provisions of the following sections of this chapter shall apply to members of plan I and plan II: RCW 41.40.010; 41.40.020; \*41.40.123; 41.40.130; 41.40.165; 41.40.223; 41.40.340; 41.40.361; 41.40.370; 41.40.380; 41.40.400; 41.40.403; 41.40.410; 41.40.412; 41.40.414; 41.40.420; 41.40.440; 41.40.450; 41.40.530; 41.40.540; 41.40.542; 41.40.800; and 41.40.810. [1991 c 35 § 69; 1989 c 273 § 20; 1989 c 272 § 7; 1979 ex.s. c 249 § 6; 1977 ex.s. c 295 § 21.]

**Reviser's note:** \*(1) RCW 41.40.123, 41.40.130, 41.40.165, 41.40.223, 41.40.340, 41.40.361, 41.40.370, 41.40.380, 41.40.400, 41.40.403, 41.40.410, 41.40.412, 41.40.414, 41.40.420, 41.40.440, 41.40.450, 41.40.530, 41.40.540, 41.40.542, 41.40.800, and 41.40.810 were recodified as RCW 41.40.028, 41.40.032, 41.40.035, 41.40.038, 41.40.042, 41.40.045, 41.40.048, 41.40.052, 41.40.055, 41.40.058, 41.40.062, 41.40.068, 41.40.073, 41.40.078, 41.40.082, 41.40.088, 41.40.092, 41.40.095, 41.40.098, 41.40.102, and 41.40.105 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Purpose—1989 c 272:** See note following RCW 41.40.325.

**41.40.010 Terms defined.** As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now or hereafter amended; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in \*RCW 41.40.120.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have

earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That if a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(i) The compensation earnable the member would have received had such member not served in the legislature; or

(ii) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9)(a) "Service" for plan I members, except as provided in \*\*RCW 41.40.450, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in \*\*RCW 41.40.450. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in \*\*RCW 41.40.450. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in

the computation of such retirement allowance or benefits.

Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system: PROVIDED FURTHER, That an individual shall receive no more than a total of twelve service credit months of service during any calendar year: PROVIDED FURTHER, That where an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in \*\*RCW 41.40.450. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

A member shall receive a total of not more than twelve service credit months of service for such calendar year: PROVIDED, That when an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: PROVIDED, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the employee or his employer, except as qualified by \*RCW 41.40.120: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than

two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in \*RCW 41.40.120.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977. [1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3. Prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

**Reviser's note:** (1) This section was amended by 1991 c 35 § 70 and by 1991 c 343 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

\* (2) RCW 41.40.120 was recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

\*\* (3) RCW 41.40.450 was recodified as RCW 41.40.088 pursuant to 1991 c 35 § 10.

(4) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Applicability—1983 c 69:** "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.] This applies to the 1983 c 69 amendment to RCW 41.40.010.

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Severability—1973 1st ex.s. c 190:** "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.] For codification of 1973 1st ex.s. c 190, see Codification Tables, Volume 0.

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**Severability—1969 c 128:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.] For codification of 1969 c 128, see Codification Tables, Volume 0.

**Severability—1965 c 155:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1965 c 155 § 10.] For codification of 1965 c 155, see Codification Tables, Volume 0.

**Severability—1963 c 174:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1963 c 174 § 19.] For codification of 1963 c 174, see Codification Tables, Volume 0.

**Severability—1961 c 291:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 291 § 18.] For codification of 1961 c 291, see Codification Tables, Volume 0.

**41.40.011 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.020 System created—Administration.** A state employees' retirement system is hereby created for the employees of the state of Washington and its political subdivisions. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules and regulations necessary therefor are hereby vested in the department. All such rules and regulations shall be governed by the provisions of chapter 34.05 RCW, as now or hereafter amended. The retirement system herein provided for shall be known as the Washington Public Employees' Retirement System. [1991 c 35 § 71; 1969 c 128 § 2; 1967 c 127 § 1; 1949 c 240 § 2; 1947 c 274 § 2; Rem. Supp. 1949 § 11072-2.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

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

**41.40.022 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.023 Membership.** Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

- (1) Persons in ineligible positions;
- (2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;
- (3)(a) Persons holding elective offices or persons appointed directly by the governor: **PROVIDED**, That such persons shall have the option of applying for membership during such periods of employment: **AND PROVIDED FURTHER**, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: **AND PROVIDED FURTHER**, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other

contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office in a town or city who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official of a town or city. A member who receives more than ten thousand dollars per year in compensation for his or her elective service is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: **PROVIDED, HOWEVER**, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: **AND PROVIDED FURTHER**, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: **AND PROVIDED FURTHER**, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.14 RCW; or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

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

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

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

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

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

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

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Plan I retirees employed in eligible positions on a temporary basis for a period not to exceed five months in a calendar year: PROVIDED, That if such employees are employed for more than five months in a calendar year in an eligible position they shall become members of the system prospectively;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions. [1990 c 274 § 10; 1990 c 192 § 4; 1988 c 109 § 25; 1987 c 379 § 1; 1986 c 317 § 5; 1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13. Formerly RCW 41.40.120.]

**Reviser's note:** This section was amended by 1990 c 192 § 4 and by 1990 c 274 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**Legislative findings—Intent—Severability—1986 c 317:** See notes following RCW 41.40.150.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

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

**Severability—1974 ex.s. c 195:** "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 195 § 14.]

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

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

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

*Election authorized to establish membership under RCW 41.40.023(3):* RCW 41.54.050.

*Pension benefits or annuity benefits for certain classifications of school district employees:* RCW 28A.400.260.

**41.40.028 Nonelective position employees employed for at least nine months—Deemed in eligible position, when.** Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter

throughout such period, shall be deemed to have been in an eligible position during such period of employment. [1980 c 112 § 2. Formerly RCW 41.40.123.]

**41.40.032 Information furnished by employees, appointive and elective officials.** Within thirty days after his or her employment or his or her acceptance into membership each employee or appointive or elective official shall submit to the department a statement of his or her name, sex, title, compensation, duties, date of birth, and length of service as an employee or appointive or elective official, and such other information as the department shall require. Each employee who becomes a member shall file a detailed statement of all his or her prior service as an employee and shall furnish such other facts as the department may require for the proper operation of the retirement system. Compliance with the provisions set forth in this section shall be considered to be a condition of employment and failure by an employee to comply may result in separation from service. [1991 c 35 § 76; 1949 c 240 § 8; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-14. Formerly RCW 41.40.130.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.035 Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials.** (1) No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated for service on such committee, board, or commission for fewer than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month: PROVIDED, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment.

(2) This section does not apply to any person serving on a committee, board, or commission on June 30, 1976, who continued such service until subsequently appointed by the governor to a different committee, board, or commission. [1987 c 146 § 1; 1977 ex.s. c 295 § 17; 1975-'76 2nd ex.s. c 34 § 4. Formerly RCW 41.40.165.]

**Effective date—Severability—1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**41.40.038 Duty disability retirement recipients—Continued service credit.** Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320.

(8) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right. [1987 c 118 § 1; 1986 c 176 § 2. Formerly RCW 41.40.223.]

**41.40.042 Members agree to deductions.** The deductions from the compensation of members, provided for in RCW 41.40.330 or 41.40.650, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter. [1991 c 35 § 89; 1977 ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35. Formerly RCW 41.40.340.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.045 Employer's additional contribution.** Any employer admitted to the retirement system after April 1, 1949, shall make an additional contribution until such time as the sum of such additional contributions equals the amount of contributions which such employer and employee would have been required to contribute between April 1, 1949, and the date of such employer's admission to the retirement system: PROVIDED, That either the employee or employer may make the contributions the employee would have made during the same period of time: PROVIDED FURTHER, That all additional contributions hereunder and under the provisions of RCW 41.40.160(2) must be completed within fifteen years from the date of the employer's admission. Employee contributions for these periods must be made before the member will receive credit for those periods of service, pursuant to such regulations as the department may adopt. [1989 c 273 § 22; 1986 c 268 § 4; 1973 1st ex.s. c 190 § 13; 1972 ex.s. c 151 § 14; 1971 ex.s. c 271 § 11; 1963 c 174 § 15; 1961 c 291 § 11; 1957 c 231 § 4.]

Prior: 1953 c 200 § 18; 1951 c 50 § 12; 1949 c 240 § 25; 1947 c 274 § 37; Rem. Supp. 1949 § 11072-37. Formerly RCW 41.40.361.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

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

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.048 Employer's contribution—Computation—Billing.** (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning September 1, 1990, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. In addition, the director shall determine and collect the additional employer contribution rate necessary to fund the benefits granted officials holding office pursuant to Articles II and III of the Constitution of the state of Washington and RCW 48.02.010. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls. [1989 c 273 § 23; 1986 c 268 § 5; 1985 c 138 § 1; 1982 1st ex.s. c 52 § 22; 1979 c 151 § 63; 1977 ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38. Formerly RCW 41.40.370.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**41.40.052 Exemption from taxation and judicial process—Exceptions—Assignability—Deductions authorized.** (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of

bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 22; 1991 c 35 § 92; 1989 c 360 § 27; 1988 c 107 § 20; 1987 c 326 § 24; 1982 c 135 § 2; 1981 c 294 § 14; 1979 ex.s. c 205 § 6; 1974 ex.s. c 195 § 4; 1967 c 127 § 6; 1947 c 274 § 39; Rem. Supp. 1947 § 11072-39. Formerly RCW 41.40.380.]

**Reviser's note:** This section was amended by 1991 c 35 § 92 and by 1991 c 365 § 22, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Implementation—Effective dates—1988 c 107:** See RCW 41.05.901.

**Effective date—1987 c 326:** See RCW 41.50.901.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**Severability—1974 ex.s. c 195:** See note following RCW 41.40.023.

**41.40.055 Penalty for false statements.** Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a gross misdemeanor. [1947 c 274 § 41; Rem. Supp. 1947 § 11072-41. Formerly RCW 41.40.400.]

**41.40.058 Transfer of service credit from state-wide city employees' retirement system.** (1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who

also became a member of the public employees' retirement system on or before July 26, 1987, may, in a writing filed with the director, elect to:

(a) Transfer to the public employees' retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to the public employees' retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of the public employees' retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of the public employees' retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under \*\*RCW 41.40.010(11) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under \*\*RCW 41.40.010(11) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2)(a) In the case of a member of the public employees' retirement system who is employed by an employer on July 26, 1987, the written election required by subsection (1) of this section must be filed and the payments required by subsection (1)(b) and (c) of this section must be completed in full within one year after July 26, 1987.

(b) In the case of a former member of the public employees' retirement system who is not employed by an employer on July 26, 1987, the written election must be filed and the payments must be completed in full within one year after reemployment by an employer.

(c) In the case of a retiree receiving a retirement allowance from the public employees' retirement system on July 26, 1987, or any person having vested rights as described in \*RCW 41.40.150 (3) or (5), the written election may be filed and the payments may be completed at any time.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (2)(c) of this section, the department shall recompute the retiree's allowance in

accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter. [1987 c 417 § 1; 1984 c 184 § 9.]

Reviser's note: \*(1) RCW 41.40.150 was amended by 1990 c 249 § 17, which deleted subsection (3) and renumbered subsection (5) as (4).

\*\*\*(2) RCW 41.40.010 was amended by 1991 c 343 § 6 and the previous subsection (11) is now subsection (13).

Severability—1984 c 184: See note following RCW 41.50.150.

**41.40.062 Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system.** (1) The employees and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every employee of each school district who is eligible for membership under \*RCW 41.40.120 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949.

(3) Each political subdivision becoming an employer under the meaning of this chapter shall make contributions to the funds of the retirement system as provided in \*\*RCW 41.40.080, \*41.40.361, and \*41.40.370 and its employees shall contribute to the employees' savings fund at the rate established under the provisions of RCW 41.40.330. In addition to the foregoing requirement, where the political subdivision becoming an employer under this section has its own retirement plan, any of the employee members thereof who may elect to transfer to this retirement system may, if permitted by the plan, withdraw all or any part of their employees' contributions to the former plan and transfer the funds to the employees' savings fund at the time of their transfer of membership. Any portion of the employees' savings fund not withdrawn shall be transferred by the employer to the retirement system over a period not to exceed fifteen years. The length of the transfer period and the method of payment to be utilized during that period shall be established by agreement between the department and the political subdivision. Employers making deferred payments of employee funds under this section shall transfer an additional amount equal to the interest that would have been credited to each employee's savings fund had his or her contributions been transferred to the state retirement system's employee savings fund on the date the political subdivision became an employer under this section. Any funds remaining in the employer's former retirement plan after all obligations of the plan have been provided for, as evidenced by appropriate actuarial study, shall be disposed of by the governing body of the political subdivision in such manner as it deems appropriate. For the purpose of administering and interpreting this chapter the department may substitute the names of political subdivisions

of the state for the "state" and employees of the subdivisions for "state employees" wherever those terms appear in this chapter. The department may also alter any dates mentioned in this chapter for the purpose of making the provisions of the chapter applicable to the entry of any political subdivisions into the system. Any member transferring employment to another employer which is covered by the retirement system may continue as a member without loss of previously earned pension and annuity benefits. The department shall keep accounts as are necessary to show the contributions of each political subdivision to the benefit account fund and shall have the power to debit and credit the various accounts in accordance with the transfer of the members from one employer to another.

(4) Employees of a political subdivision, maintaining its own retirement system, who have been transferred to a health district formed pursuant to chapter 70.46 RCW, but who have been allowed to remain members of the political subdivision's retirement system may be transferred as a group to the Washington public employees' retirement system. This transfer may be made by the action of the legislative authority of the political subdivision maintaining its own retirement system. This transfer shall include employer's and member's funds in the transferring municipalities' retirement system.

(5) Employees of a political subdivision, maintaining its own retirement system, heretofore transferred to a joint airport operation of two municipalities pursuant to chapter 14.08 RCW, may be transferred as a group to the Washington public employees' retirement system. This transfer may be made by the action of the legislative authority of the political subdivision maintaining its own retirement system. This transfer shall include employer's and member's funds in the transferring municipalities' retirement system. [1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42. Formerly RCW 41.40.410.]

**Reviser's note:** \*(1) RCW 41.40.120, 41.40.361, and 41.40.370 were recodified as RCW 41.40.023, 41.40.045, and 41.40.048 pursuant to 1991 c 35 § 10.

\*\* (2) RCW 41.40.080 was recodified as RCW 41.50.250 pursuant to 1991 c 35 § 7.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1971 ex.s. c 271: See note following RCW 41.32.260.

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

**41.40.068 Hearing prior to appeal—Required—Notice.** Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies

in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1991 c 35 § 94; 1969 c 128 § 14; 1963 c 174 § 17; 1953 c 200 § 22. Formerly RCW 41.40.412.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

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

**41.40.072 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.073 Hearing prior to appeal—Conduct.** Following its receipt of a notice for hearing in accordance with \*RCW 41.40.412, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be conducted and governed in all respects by the provisions of chapter 34.05 RCW. [1989 c 175 § 87; 1969 c 128 § 15; 1953 c 200 § 23. Formerly RCW 41.40.414.]

**\*Reviser's note:** RCW 41.40.412 was recodified as RCW 41.40.068 pursuant to 1991 c 35 § 10.

**Effective date**—1989 c 175: See note following RCW 34.05.010.

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

**41.40.075 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.077 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.078 Judicial review in accordance with Administrative Procedure Act.** Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW. [1989 c 175 § 88; 1969 c 128 § 16; 1963 c 174 § 18; 1953 c 200 § 20; 1951 c 50 § 14. Formerly RCW 41.40.420.]

**Effective date**—1989 c 175: See note following RCW 34.05.010.

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

**41.40.080 Recodified as RCW 41.50.250.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.082 Appeal—No bond required.** No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits. [1991 c 35 § 95; 1971 c 81 § 105; 1951 c 50 § 16. Formerly RCW 41.40.440.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.40.083 Recodified as RCW 41.50.255.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.088 School district employees—Service credit—Computation provisions.** (1) A plan I member who is employed by a school district or districts, an educational service district, the state school for the deaf, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan II member who is employed by a school district or districts, an educational service district, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period.

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(3) The department shall adopt rules implementing this section. [1991 c 343 § 9; 1991 c 35 § 96; 1990 c 274 § 4; 1989 c 289 § 2; 1987 c 136 § 1; 1983 c 69 § 2; 1973 c 23 § 1. Formerly RCW 41.40.450.]

**Reviser's note:** This section was amended by 1991 c 35 § 96 and by 1991 c 343 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Intent—Reservation—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**41.40.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.092 Transfer of cadet service credit to Washington state patrol retirement system.** (1) Active members of the Washington state patrol retirement system who have previously established service credit in the public employees' retirement system while employed by the state patrol as a cadet as defined in RCW 43.43.120(6)(b) may have such service credit transferred to the state patrol retirement system subject to the terms and conditions specified in chapter 43.43 RCW, including reestablishment of such service for the sole purpose of transfer. Service reestablishment shall be subject to the interest requirements of RCW 41.40.150(2).

(2) Service credit established for employment other than that specified in subsection (1) of this section is not eligible for transfer. [1983 c 81 § 3. Formerly RCW 41.40.530.]

**Effective date—1983 c 81:** See note following RCW 43.43.120.

**41.40.095 Transfer of membership from judicial retirement system.** (1) Any member of the Washington judicial retirement system who wishes to transfer such membership to the retirement system provided for in this chapter shall file a written request with the director as required by RCW 2.10.040 on or before December 31, 1989, or within one year after reentering service as a judge.

Upon receipt of such request, the director shall transfer from the judicial retirement system to this retirement system: (a) An amount equal to the employee and employer contributions the judge would have made if the judge's service under chapter 2.10 RCW had originally been earned under this chapter, which employee contributions shall be credited to the member's account established under this chapter; and (b) a record of service credited to the member. The judge's accumulated contributions that exceed the amount credited to the judge's account under this subsection shall be deposited in the judge's retirement account created pursuant to chapter 2.14 RCW.

(2) The member shall be given year-for-year credit for years of service, as determined under RCW 2.10.030(8), earned under the judicial retirement system. Service credit granted under the judicial retirement system pursuant to RCW 2.10.220 shall not be transferred under this section. The director instead shall reverse the transfer of contributions and service credit previously made under RCW 2.10.220 and shall credit the member for such periods of service and contributions under this chapter as though no transfer had ever occurred.

(3) All employee contributions transferred pursuant to this section shall be treated the same as other employee

contributions made under this chapter. [1988 c 109 § 5. Formerly RCW 41.40.540.]

**Effective date**—1988 c 109: See note following RCW 2.10.030.

**41.40.098 Transfer of former service from judicial retirement system.** A former member of the Washington judicial retirement system who: (1) Is not serving as a judge on July 1, 1988; (2) has not retired under the applicable provisions of chapter 2.10 RCW; and (3) subsequently reacquires membership in the public employees' retirement system may, by written request filed with the director of retirement systems, transfer to the public employees' retirement system all periods of time served as a judge, as defined in RCW 2.10.030(2). Upon such membership transfer being made, the department of retirement systems shall transfer the employer contributions and the employee's contributions and service from the judicial retirement system to the public employees' retirement system. The service shall be transferred and credited to the member as though the service was originally earned as a member of the public employees' retirement system. [1988 c 109 § 6. Formerly RCW 41.40.542.]

**Effective date**—1988 c 109: See note following RCW 2.10.030.

**41.40.100 Recodified as RCW 41.50.260.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.102 Effect of certain accumulated vacation leave on retirement benefits.** RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 4. Formerly RCW 41.40.800.]

**41.40.105 Chapter not applicable to officers and employees of state convention and trade center.** The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 6. Formerly RCW 41.40.810.]

**Savings**—**Severability**—1984 c 210: See notes following RCW 67.40.020.

**41.40.108 Higher education classified employees—Membership in the public employees' retirement system.** (1) All classified employees employed by Washington State University on and after April 24, 1973, and otherwise eligible shall become members of the Washington public employees' retirement system to the exclusion of any other retirement benefit system at the institution unless otherwise provided by law.

(2) All classified employees employed by the University of Washington or each of the regional universities or The Evergreen State College on and after May 6, 1974, and otherwise eligible shall become members of the Washington public employees' retirement system at the institution unless otherwise provided by law: PROVIDED, That persons who, immediately prior to the

date of their hiring as classified employees, have for at least two consecutive years held membership in a retirement plan underwritten by the private insurer of the retirement plan of their respective educational institution may irrevocably elect to continue their membership in the retirement plan notwithstanding the provisions of this chapter, if the election is made within thirty days from the date of their hiring as classified employees. If these persons elect to become members of the public employees' retirement system, contributions by them and their employers shall be required from their first day of employment. [1991 c 35 § 107.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.40.110 Recodified as RCW 41.50.265.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.112 Chapter not applicable to employees of Seattle Vocational Institute.** Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 108.]

**Effective dates**—**Severability**—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

**41.40.120 Recodified as RCW 41.40.023.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.123 Recodified as RCW 41.40.028.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.130 Recodified as RCW 41.40.032.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.135 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.138 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

## "PLAN I"

**41.40.145 Provisions applicable to plan I.** The provisions of the following sections of this subchapter shall apply only to members of plan I: RCW 41.40.150; 41.40.160; 41.40.170; 41.40.180; 41.40.185; 41.40.188; 41.40.190; 41.40.193; 41.40.195; 41.40.198; 41.40.1981; 41.40.200; 41.40.210; 41.40.220; 41.40.230; 41.40.235; 41.40.250; 41.40.260; 41.40.270; 41.40.280; 41.40.300; 41.40.310; 41.40.320; 41.40.325; 41.40.330; and 41.40.363. [1991 c 35 § 105.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.40.150 Termination of membership—Restoration of service credit—Notice.** Should any member die, or should the individual separate or be separated

from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.188, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

(4) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(5)(a) The recipient of a retirement allowance who is employed in an eligible position other than under \*RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in \*RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall

become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in \*RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(6) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply. [1990 c 249 § 17. Prior: 1987 c 384 § 1; 1987 c 88 § 1; 1986 c 317 § 3; 1983 c 233 § 2; 1982 1st ex.s. c 52 § 20; 1979 ex.s. c 249 § 10; 1974 ex.s. c 195 § 3; 1973 1st ex.s. c 190 § 6; 1969 c 128 § 6; 1967 c 127 § 4; 1965 c 155 § 3; 1963 c 174 § 8; 1955 c 277 § 3; 1953 c 200 § 7; 1951 c 50 § 3; 1949 c 240 § 10; 1947 c 274 § 16; Rem. Supp. 1949 § 11072-16.]

**Reviser's note:** \*(1) RCW 41.40.120 was recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective dates—1987 c 384:** "Section 1 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. Section 2 of this act shall take effect July 1, 1988." [1987 c 384 § 3.]

**Legislative findings—Intent—1986 c 317:** "The legislature finds that in the past public employees and teachers who had terminated

employment, withdrawn their retirement contributions, and subsequently returned to public employment or teaching either did not receive proper notification of the procedure to reinstate their withdrawn contributions or they did not fully understand the limitation on such reinstatement. In 1973, the legislature recognized this fact and provided an extraordinary reinstatement period for such employees. Further in 1983, the legislature established clear notification procedures for the proper notification of the reinstatement policy for all such returning employees. Therefore, it is the intent of this 1986 act to provide one last opportunity for reinstatement of withdrawn contributions to those who may have not been properly informed or misunderstood the reinstatement procedure." [1986 c 317 § 1.]

**Severability—1986 c 317:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 317 § 11.]

**Severability—1983 c 233:** See note following RCW 41.32.500.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Severability—1974 ex.s. c 195:** See note following RCW 41.40.023.

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

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

**41.40.155 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.160 Creditable service.** (1) Subject to the provisions of RCW 41.40.150, at retirement the total service credited to a member shall consist of all membership service and, if he or she is an original member, all of the certified prior service.

(2) Employees of a public utility or other private enterprise all or any portion of which has been heretofore or may be hereafter acquired by a public agency as a matter of public convenience and necessity, where it is in the public interest to retain the trained personnel of such enterprise, all service to that enterprise shall, upon the acquiring public agency becoming an employer as defined in RCW 41.40.010(4) be credited on the same basis as if rendered to the said employer: PROVIDED, That this shall apply only to those employees who were in the service of the enterprise at or prior to the time of acquisition by the public agency and who remain in the service of the acquiring agency until they attain membership in the state employees' retirement system; and to those employees who were in the service of the enterprise at the time of acquisition by the public agency and subsequently attain membership through employment with any participating agency: PROVIDED FURTHER, In the event that the acquiring agency is an employer at the time of the acquisition, employer's contributions in connection with members achieving service credit hereunder shall be made on the same basis as set forth in \*RCW 41.40.361 and 41.40.370 for an employer admitted after April 1, 1949. [1991 c 35 § 77; 1989 c 273 § 27; 1965 c 155 § 4; 1963 c 174 § 9; 1953 c 200 § 8; 1951 c 50 § 4; 1949 c 240 § 11; 1947 c 274 § 17; Rem. Supp. 1949 § 11072-17.]

**Reviser's note:** \*(1) RCW 41.40.361 and 41.40.370 were recodified as RCW 41.40.045 and 41.40.048 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**41.40.165 Recodified as RCW 41.40.035.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.170 Credit for military service.** (1) A member who has served or shall serve on active federal service in the military or naval forces of the United States and who left or shall leave an employer to enter such service shall be deemed to be on military leave of absence if he or she has resumed or shall resume employment as an employee within one year from termination thereof.

(2) If he or she has applied or shall apply for reinstatement of employment, within one year from termination of the military service, and is refused employment for reasons beyond his or her control, he or she shall, upon resumption of service within ten years have such service credited to him or her.

(3) In any event, after completing twenty-five years of creditable service, any member may have service in the armed forces credited to him or her as a member whether or not he or she left the employ of an employer to enter the armed service: PROVIDED, That in no instance, described in this section, shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance the member must restore all withdrawn accumulated contributions, which restoration must be completed within five years of membership service following the first resumption of employment or complete twenty-five years of creditable service: AND PROVIDED FURTHER, That this section will not apply to any individual, not a veteran within the meaning of RCW 41.04.005, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance, described in this section, shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code. [1991 c 35 § 78; 1981 c 294 § 12; 1973 1st ex.s. c 190 § 14; 1972 ex.s. c 151 § 3; 1969 c 128 § 7; 1967 c 127 § 8; 1963 c 174 § 10; 1953 c 200 § 9; 1949 c 240 § 12; 1947 c 274 § 18; Rem. Supp. 1949 § 11072-18.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1981 c 294:** See note following RCW 41.26.115.

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

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

**41.40.180 Retirement—Length of service.** (1) Any member with five years of creditable service who has attained age sixty and any original member who has attained age sixty may retire on written application to the director, setting forth at what time the member desires

to be retired: PROVIDED, That in the national interest, during time of war engaged in by the United States, the director may extend beyond age sixty, subject to the provisions of subsection (2) of this section, the age at which any member may be eligible to retire.

(2) Any member who has completed thirty years of service may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(3) Any member who has completed twenty-five years of service and attained age fifty-five may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(4) Any individual who is eligible to retire pursuant to subsections (1) through (3) of this section shall be allowed to retire while on any authorized leave of absence not in excess of one hundred and twenty days. [1982 1st ex.s. c 52 § 21; 1973 1st ex.s. c 190 § 7; 1972 ex.s. c 151 § 4; 1971 ex.s. c 271 § 7; 1967 c 127 § 5; 1963 c 174 § 11; 1955 c 277 § 4; 1953 c 200 § 10; 1951 c 81 § 1; 1949 c 240 § 13; 1947 c 274 § 19; Rem. Supp. 1949 § 11072-19.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

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

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.185 Retirement allowances—Members retiring after February 25, 1972.** Upon retirement from service, as provided for in RCW 41.40.180 or 41.40.210, a member shall be eligible for a service retirement allowance computed on the basis of the law in effect at the time of retirement, together with such post-retirement pension increases as may from time to time be expressly authorized by the legislature. The service retirement allowance payable to members retiring on and after February 25, 1972 shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions made pursuant to RCW 41.40.330(2).

(2) A membership service pension, subject to the provisions of subsection (4) of this section, which shall be equal to two percent of his or her average final compensation for each service credit year or fraction of a service credit year of membership service.

(3) A prior service pension which shall be equal to one-seventieth of his or her average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his or her service accounts. In no event, except as provided in \*this 1972 amendatory act, shall any member receive a retirement allowance pursuant to subsections (2) and (3) of this section of more than sixty percent of his or her average final compensation: PROVIDED, That no member shall receive a pension under this section of less than nine

hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected to the office of state senator or state representative. [1991 c 343 § 7; 1990 c 249 § 7; 1987 c 143 § 2; 1973 1st ex.s. c 190 § 8; 1972 ex.s. c 151 § 5.]

**Reviser's note:** \*(1) "this 1972 amendatory act" [1972 ex.s. c 151] consists of the 1972 ex.s. amendments to RCW 41.40.010, 41.40.100, 41.40.170, 41.40.180, 41.40.190, 41.40.210, 41.40.220, 41.40.250, 41.40.270, 41.40.330, 41.40.361, the repeal of RCW 41.40.240, and the enactment of RCW 41.40.185, 41.40.193 and 41.40.235.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

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

**41.40.188 Retirement allowance—Options.** (1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree

shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give [give] written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 9.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings**—1990 c 249: See note following RCW 2.10.146.

**41.40.190 Retirement allowance**—In lieu of allowance provided in RCW 41.40.185. In lieu of the retirement allowance provided in RCW 41.40.185, an individual employed on or before April 25, 1973 may, after complying with RCW 41.40.180 or 41.40.210, make an irrevocable election to receive the retirement allowance provided by this section which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement; and

(2) A basic service pension of one hundred dollars per annum; and

(3) A membership service pension, subject to the provisions of subdivision (4) of this section, which shall be equal to one one-hundredth of his or her average final compensation for each year or fraction of a year of membership service credited to his or her service account; and

(4) A prior service pension which shall be equal to one-seventieth of his or her average final compensation for each year or fraction of a year of prior service not to

exceed thirty years credited to his or her service accounts. In no event shall any original member upon retirement at age seventy with ten or more years of service credit receive less than nine hundred dollars per annum as a retirement allowance, nor shall any member upon retirement at any age receive a retirement allowance of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit. In the event that the retirement allowance as to such member provided by subdivisions (1), (2), (3), and (4) hereof shall amount to less than the aforesaid minimum retirement allowance, the basic service pension of the member shall be increased from one hundred dollars to a sum sufficient to make a retirement allowance of the applicable minimum amount.

(5) Notwithstanding the provisions of subsections (1) through (4) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected under the provisions of Article II of the Washington state Constitution.

(6) Unless payment shall be made under RCW 41.40.270, a joint and one hundred percent survivor benefit under RCW 41.40.188 shall automatically be given effect as if selected for the benefit of the surviving spouse upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified for a service retirement allowance or has completed ten years of service at the time of death, except that if the member is not then qualified for a service retirement allowance, such option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance. [1990 c 249 § 8; 1987 c 143 § 3; 1973 1st ex.s. c 190 §

9; 1972 ex.s. c 151 § 6; 1971 ex.s. c 271 § 5; 1969 c 128 § 8; 1967 c 127 § 7; 1961 c 291 § 6; 1953 c 200 § 11; 1951 c 50 § 5; 1949 c 240 § 14; 1947 c 274 § 20; Rem. Supp. 1949 § 11072-20.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—1990 c 249:** See note following RCW 2.10.146.

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

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

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

**41.40.193 Dates upon which retirement allowances accrue.** Retirement allowances paid to members eligible to retire under the provisions of RCW 41.40.180, 41.40.200, 41.40.210, 41.40.220, 41.40.230, and 41.40.250 shall accrue from the first day of the calendar month immediately following the calendar month during which the member is separated from service. Retirement allowance paid to members eligible to retire under any other provisions of \*this 1972 amendatory act shall accrue from the first day of a calendar month but in no event earlier than the first day of the calendar month immediately following the calendar month during which the member is separated from service. [1983 c 3 § 94; 1973 1st ex.s. c 190 § 10; 1972 ex.s. c 151 § 7.]

**Reviser's note:** \*(1) "This 1972 amendatory act", see note following RCW 41.40.185.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

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

**41.40.195 Adjustment in pension portion of service retirement allowance for prior pensions.** (1) "Index" for the purposes of this section, shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred)—compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Cost-of-living factor", for any year shall mean the ratio of the index for the previous year to the index for the year preceding the initial date of payment of the retirement allowance, except that, in no event, shall the cost-of-living factor, for any year subsequent to 1971, be

(a) less than 1.000;

(b) more than one hundred three percent or less than ninety-seven percent of the previous year's cost-of-living factor; or

(c) such as to yield a retirement allowance, for any individual, less than that which was in effect July 1, 1971;

(3) "Initial date of payment" shall mean:

(a) The date of retirement of a member, or

(b) In the case of beneficiary receiving an allowance pursuant to the automatic application of option II pursuant to RCW 41.40.270(2), the first day of the month following the date of death;

(4) Each service retirement allowance payable from July 1, 1973 until any subsequent adjustment pursuant to subsection (5) of this section shall be adjusted so as to equal the product of the cost-of-living factor for 1973 and the amount of said retirement allowance on the initial date of payment.

(5) Each service retirement allowance payable from July 1st of any year after 1973 until any subsequent adjustment pursuant to this subsection shall be adjusted so as to equal the product of the cost-of-living factor for such year and the amount of said retirement allowance on the initial date of payment: PROVIDED, That the department finds, at its sole discretion, that the cost of such adjustments shall have been met by the excess of the growth in the assets of the system over that required for meeting the actuarial liabilities of the system at that time.

(6) The cost-of-living increases provided by this section shall be applicable to those individuals receiving benefits calculated pursuant to chapter 41.44 RCW and paid by the public employees' retirement system pursuant to \*RCW 41.40.407. [1991 c 35 § 79; 1973 2nd ex.s. c 14 § 1; 1973 1st ex.s. c 190 § 11; 1971 ex.s. c 271 § 6; 1970 ex.s. c 68 § 1.]

**Reviser's note:** \*(1) RCW 41.40.407 was decodified pursuant to 1991 c 35 § 4.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

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

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.198 Minimum retirement allowance—Computation.** (1) Notwithstanding any provision of law to the contrary, effective July 1, 1989, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than fourteen dollars and eighty-two cents per month for each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by fourteen dollars and eighty-two cents. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) The provisions of subsection (1) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.40.220(1), 41.44.170(5), or 41.40.610 through 41.40.740. For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty

dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month for each year of creditable service. [1989 c 272 § 8; 1987 c 455 § 2; 1986 c 306 § 3; 1979 ex.s. c 96 § 1.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Purpose**—1989 c 272: See note following RCW 41.40.325.

**Effective date**—1987 c 455: See note following RCW 41.32.485.

**Effective date**—1986 c 306: See note following RCW 41.32.485.

**41.40.1981 Minimum retirement allowance—Annual cost-of-living adjustment.** Beginning July 1, 1989, and every year thereafter, the department shall determine the following information for the minimum retirement allowance provided by RCW 41.40.198(1):

(1) The dollar amount of the minimum retirement allowance as of July 1, 1989, after the increase provided in section 8, chapter 272, Laws of 1989;

(2) The index for the 1987 calendar year, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the minimum retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the minimum retirement allowance as of July 1, 1988;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

Persons who served as elected officials and whose accumulated employee contributions and credited interest were less than seven hundred fifty dollars at the time of retirement shall not receive the benefit provided by this section.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1989 c 272 § 9; 1987 c 455 § 4.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Purpose**—1989 c 272: See note following RCW 41.40.325.

**Effective date**—1987 c 455: See note following RCW 41.32.485.

**41.40.1982 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.199 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.200 Retirement for disability in line of duty—Applicability to certain judges.** (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who becomes totally incapacitated for duty as the natural and proximate result of an accident occurring in the actual performance of duty or who becomes totally incapacitated for duty and qualifies to receive benefits under Title 51 RCW as a result of an occupational disease, as now or hereafter defined in RCW 51.08.140, while in the service of an employer, without willful negligence on his or her part, shall be retired subject to the following conditions:

(a) That the medical adviser, after a medical examination of such member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically totally incapacitated for the further performance of his or her duty and that such member should be retired;

(b) That the director concurs in the recommendation of the medical adviser;

(c) That no application shall be valid or a claim thereunder enforceable unless, in the case of an accident, the claim is filed within two years after the date upon which the injury occurred or, in the case of an occupational disease, the claim is filed within two years after the member separated from service with the employer; and

(d) That the coverage provided for occupational disease under this section may be restricted in the future by the legislature for all current and future members.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the director, shall be considered a retirement under subsection (1) of this section. [1991 c 35 § 80; 1986 c 207 § 1; 1982 c 18 § 3; 1955 c 277 § 5; 1951 c 50 § 6; 1949 c 240 § 15; 1947 c 274 § 21; Rem. Supp. 1949 § 11072-21.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.40.210 Duty disability retirement allowance for disability after age sixty.** Upon retirement for disability, as provided in RCW 41.40.200, a member who has attained age sixty, regardless of his creditable service shall receive a service retirement allowance. [1972 ex.s. c 151 § 8; 1947 c 274 § 22; Rem. Supp. 1947 § 11072-22.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**41.40.220 Allowance on retirement for duty disability—Before sixty.** Upon retirement for disability, as provided in RCW 41.40.200, a member who has not attained age sixty shall receive the following benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

(1) A disability retirement pension of two-thirds of his or her average final compensation to his or her attainment of age sixty, subject to the provisions of RCW 41.40.310. The disability retirement pension provided by the employer shall not exceed forty-two hundred dollars per annum, and

(2) Upon attainment of age sixty, the disabled member shall receive a service retirement allowance as provided in RCW 41.40.210. The department shall grant the disabled member membership service for the period of time prior to age sixty he or she was out of such service due to disability.

(3) During the period a disabled member is receiving a disability pension, as provided for in subsection (1) of this section, his or her contributions to the employees' savings fund shall be suspended and his or her balance in the employees' savings fund, standing to his or her credit as of the date his or her disability pension is to begin, shall remain in the employees' savings fund. If the disabled member should die before attaining age sixty, while a disability beneficiary, upon receipt by the department of proper proof of death, the member's accumulated contributions standing to his or her credit in the employees' savings fund, shall be paid to such person or persons, having an insurable interest in his or her life, as he or she shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the accumulated contributions standing to the member's credit in the employees' savings fund shall be paid to his or her surviving spouse, or if there is no surviving spouse, then to the member's legal representative. [1991 c 35 § 81; 1972 ex.s. c 151 § 9; 1971 ex.s. c 271 § 8; 1961 c 291 § 7; 1953 c 200 § 12; 1949 c 240 § 16; 1947 c 274 § 23; Rem. Supp. 1949 § 11072-23.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.223 Recodified as RCW 41.40.038.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.225 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.230 Nonduty disability—Applicability to certain judges.** (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who has been an employee at least five years, and who becomes totally and

permanently incapacitated for duty as the result of causes occurring not in the performance of his or her duty, may be retired by the department, subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired; and

(b) That the department concurs in the recommendation of the medical adviser.

(2) The retirement for disability of a judge, who is a member of the retirement system and who has been an employee at least five years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section. [1991 c 35 § 82; 1982 c 18 § 4; 1969 c 128 § 9; 1951 c 50 § 7; 1949 c 240 § 17; 1947 c 274 § 24; Rem. Supp. 1949 § 11072-24.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

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

**41.40.235 Nonduty disability retirement allowance—Amount—Maximum—Death benefit.** (1) Upon retirement, a member shall receive a nonduty disability retirement allowance equal to two percent of average final compensation for each service credit year of service: **PROVIDED**, That this allowance shall be reduced by two percent of itself for each year or fraction thereof that his or her age is less than fifty-five years: **PROVIDED FURTHER**, That in no case may the allowance provided by this section exceed sixty percent of average final compensation.

(2) If the recipient of a retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative. [1991 c 343 § 8; 1991 c 35 § 83; 1986 c 176 § 4; 1972 ex.s. c 151 § 10.]

**Reviser's note:** (1) This section was amended by 1991 c 35 § 83 and by 1991 c 343 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.250 Allowance on retirement for nonduty disability—Election.** An individual who was a member on February 25, 1972, may upon qualifying pursuant to RCW 41.40.230, make an irrevocable election to receive the nonduty disability retirement allowance provided in subsections (1) and (2) of this section subject to the provisions of RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after age sixty the member shall receive a service retirement allowance as provided for in RCW 41.40.190 except that the annuity portion thereof shall consist of a continuation of the cash refund annuity previously provided to him or her. The disability retirement allowance prior to age sixty shall consist of:

(1) A cash refund annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of his or her retirement; and

(2) A pension, in addition to the annuity, equal to one hundredth of the member's average final compensation for each year of service. If the recipient of a retirement allowance under this section dies before the total of the annuity portions of the retirement allowance paid to him or her equals the amount of his or her accumulated contributions at the date of retirement, then the balance shall be paid to the person or persons having an insurable interest in his or her life as he or she shall have nominated by written designation duly executed and filed with the department, or if there is no designated person or persons, still living at the time of his or her death, then to his or her surviving spouse, or if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representatives. [1991 c 35 § 84; 1972 ex.s. c 151 § 11; 1969 c 128 § 10; 1961 c 291 § 8; 1953 c 200 § 13; 1947 c 274 § 26; Rem. Supp. 1947 § 11072–26.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

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

**Nonduty disability retirement allowance—1972 act:** See RCW 41.40.235.

**41.40.260 Withdrawal from system—Refund of contributions—Waiver of allowance, when.** Subject to the provisions of RCW 41.40.280, should a member cease to be an employee, he or she may request upon a form provided by the department a refund of all or part of the funds standing to his or her credit in the employees' savings fund and this amount shall be paid to him or her. Withdrawal of all or part of the funds, other than additional contributions under RCW 41.40.330(2) by a member who is eligible for a service retirement allowance in RCW 41.40.180 or a disability retirement allowance in RCW 41.40.200, 41.40.210, 41.40.220, 41.40.230, or 41.40.250 shall constitute a waiver of any service or disability retirement allowance. [1991 c 35 §

85; 1983 c 3 § 95; 1971 ex.s. c 271 § 9; 1963 c 174 § 12; 1949 c 240 § 18; 1947 c 274 § 27; Rem. Supp. 1949 § 11072–27.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.270 Death before retirement—Payment of contributions to nominee, surviving spouse, or legal representative—Waiver of payment, effect—Benefits.**

(1) Should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to such person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) Upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary. If the member is not then qualified for a service retirement allowance, such benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW 41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member. [1991 c 365 § 27; 1990 c 249 § 11; 1979 ex.s. c 249 § 11; 1972 ex.s. c 151 § 12; 1969 c 128 § 11; 1965 c 155 § 5; 1963 c 174 § 13; 1961 c 291 § 9; 1953 c 201 § 1; 1953 c 200 § 14; 1951 c 141 § 1; 1949 c 240 § 19; 1947 c 274 § 28; Rem. Supp. 1949 § 11072-28.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

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

**41.40.280 Department may withhold refunds of contributions.** The department may, in its discretion, withhold payment of all or part of a member's contributions for not more than six months after a member has ceased to be an employee. Termination of employment with one employer for the purpose of accepting employment with another employer or termination with one employer and reemployment with the same employer within a period of thirty days shall not qualify a member for a refund of his or her accumulated contributions. In addition, a member who files an application for a refund of his or her accumulated contributions and subsequently becomes employed in an eligible position before the expiration of thirty days or before a refund payment has been made, shall not be eligible for the refund payment. [1991 c 35 § 86; 1973 2nd ex.s. c 14 § 2; 1947 c 274 § 29; Rem. Supp. 1947 § 11072-29.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.300 Benefits offset by workers' compensation or similar benefits.** Any amounts which may be paid or payable under the provisions of any workers' compensation, or pension, or similar law on account of any disability shall be offset against and payable in lieu of any benefits payable from funds provided by the employer under the provisions of this chapter on account of the same disability. [1987 c 185 § 14; 1949 c 240 § 21; 1947 c 274 § 31; Rem. Supp. 1949 § 11072-31.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—Severability—1987 c 185:** See notes following RCW 51.12.130.

**41.40.310 Periodical examination of disability beneficiaries—Benefits upon resumption of gainful employment.** Once each year during the first five years following the retirement of a member on a disability pension or retirement allowance, and at least once in every three year period thereafter the department may, and upon the member's application shall, require any disability beneficiary, who has not attained age sixty years, to undergo a medical examination; such examination to be made by or under the direction of the medical adviser at the place of residence of the beneficiary, or other place mutually agreed upon. Should any disability beneficiary, who has not attained age sixty years, refuse to submit to a medical examination in any period, his or her disability pension or retirement allowance may be discontinued until his or her withdrawal of the refusal, and should the refusal continue for one year, all his or her rights in and to his or her disability pension, or retirement allowance, may be revoked by the department. If upon a medical examination of a disability beneficiary, the medical adviser reports and his or her report is concurred in by the department, that the disability beneficiary is no longer totally incapacitated for duty as the result of the injury or illness for which the disability was granted, or that he or she is engaged in a gainful occupation, his or her disability pension or retirement allowance shall cease.

If the disability beneficiary resumes a gainful occupation and his or her compensation is less than his or her compensation earnable at the date of disability, the department shall continue the disability benefits in an amount which when added to his or her compensation does not exceed his or her compensation earnable at the date of separation, but the disability benefit shall in no event exceed the disability benefit originally awarded. The compensation earnable at the date of separation shall be adjusted July 1 of each year by the ratio of the average consumer price index (Seattle, Washington area) for urban consumers, compiled by the United States department of labor, bureau of labor statistics, for the calendar year prior to the adjustment to the average consumer price index for the calendar year in which separation from service occurred but in no event shall the adjustment result in an amount lower than the original compensation earnable at the date of separation. [1991 c 35 § 87; 1984 c 184 § 14; 1965 c 155 § 7; 1963 c 174 § 14; 1955 c 277 § 7; 1951 c 50 § 9; 1949 c 240 § 22; 1947 c 274 § 32; Rem. Supp. 1949 § 11072-32.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Severability—Effective date—1982 c 163:** See notes following RCW 2.10.052.

**41.40.320 Disability beneficiary—Restoration to service.** A disability beneficiary who has been or shall be

reinstated to active service shall from the date of restoration again become a member of the retirement system; and shall contribute to the retirement system in the same manner as prior to the disability retirement. Any prior service and membership service, on the basis of which retirement allowances were computed at the time of retirement, shall be restored to full force and effect, and, except in the case of retirement for nonduty disability as provided in RCW 41.40.230, he or she shall be given membership service for the period of time out of service due to the disability. [1991 c 35 § 88; 1953 c 200 § 16; 1951 c 50 § 10; 1949 c 240 § 23; 1947 c 274 § 33; Rem. Supp. 1949 § 11072-33.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.325 Cost of living adjustment—Age sixty-five allowance—Information compiled—Definitions.**

(1) Beginning July 1, 1989, and every year thereafter, the department shall determine the following information for each retired member or beneficiary who is over the age of sixty-five:

(a) The dollar amount of the retirement allowance received by the retiree at age sixty-five, to be known for the purposes of this section as the "age sixty-five allowance";

(b) The index for the calendar year prior to the year that the retiree reached age sixty-five, to be known for purposes of this section as "index A";

(c) The index for the calendar year prior to the date of determination, to be known for purposes of this section as "index B";

(d) The ratio obtained when index B is divided by index A, to be known for the purposes of this section as the "full purchasing power ratio"; and

(e) The value obtained when the retiree's age sixty-five allowance is multiplied by sixty percent of the retiree's full purchasing power ratio, to be known for the purposes of this section as the "target benefit."

(2) Beginning with the July payment, the retiree's age sixty-five allowance shall be adjusted to be equal to the retiree's target benefit. In no event, however, shall the adjusted allowance:

(a) Be smaller than the retirement allowance received without the adjustment; nor

(b) Differ from the previous year's allowance by more than three percent.

(3) For members who retire after age sixty-five, the age sixty-five allowance shall be the initial retirement allowance received by the member.

(4) For beneficiaries of members who die prior to age sixty-five: (a) The age sixty-five allowance shall be the allowance received by the beneficiary on the date the member would have turned age sixty-five; and (b) index A shall be the index for the calendar year prior to the year the member would have turned age sixty-five.

(5) Where the pension payable to a beneficiary was adjusted at the time the benefit commenced, the benefit

provided by this section shall be adjusted in a manner consistent with the adjustment made to the beneficiary's pension.

(6) For the purposes of this section:

(a) "Index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor;

(b) "Retired member" or "retiree" means any member who has retired for service or because of duty or nonduty disability, or the surviving beneficiary of such a member. [1989 c 272 § 2.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Purpose—1989 c 272:** "The legislature recognizes that inflation erodes the purchasing power of retirement benefits. Although the benefit provided to state retirees from social security is fully protected, the benefits provided by the public employees' retirement system, plan I, and the teachers' retirement system, plan I provide an automatic cost-of-living adjustment only for persons who receive the minimum benefit.

The purpose of \*this act is to add provisions to the teachers' retirement system and the public employees' retirement system which will help mitigate the impact of inflation on retirees of those systems. These additional provisions are intended to reflect and implement the following policies:

(1) The minimum benefit is increased in order to provide a more adequate basic standard of living to persons who retired long ago under lower salaries and less generous retirement benefit formulas; and

(2) Retirees whose benefits have lost forty percent of their purchasing power are made eligible for automatic adjustments which are provided in a manner that is consistent with the retirement age and benefit provisions of plan II of the teachers' retirement system and the public employees' retirement system." [1989 c 272 § 1.]

**\*Reviser's note:** "This act" [1989 c 272] consists of this section, the enactment of RCW 41.32.575 and 41.40.325, amendments to RCW 41.32.005, 41.32.485, 41.32.487, 41.40.005, 41.40.198, and 41.40.1981, and an emergency clause.

**41.40.330 Contributions.** (1) Each employee who is a member of the retirement system shall contribute six percent of his or her total compensation earnable. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit. The officer responsible for making up the payroll shall deduct from the compensation of each member, on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she became a member of the retirement system the contribution as provided by this section.

(2) Any member may, pursuant to regulations formulated from time to time by the department, provide for himself or herself, by means of an increased rate of contribution to his or her account in the employees' savings fund, an increased prospective retirement allowance pursuant to RCW 41.40.190 and 41.40.185.

(3) The officer responsible for making up the payroll shall deduct from the compensation of each member covered by the provisions of RCW 41.40.190(5) and 41.40.185(4) on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she thereafter becomes a member of the

retirement system, an amount equal to seven and one-half percent of such member's compensation earnable. [1990 c 8 § 4; 1986 c 268 § 3; 1973 1st ex.s. c 190 § 12; 1972 ex.s. c 151 § 13; 1971 ex.s. c 271 § 10; 1969 c 128 § 12; 1953 c 200 § 17; 1951 c 50 § 11; 1949 c 240 § 24; 1947 c 274 § 34; Rem. Supp. 1949 § 11072-34.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings**—1990 c 8: See note following RCW 41.50.065.

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

**Severability**—1971 ex.s. c 271: See note following RCW 41.32.260.

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

**Members' retirement contributions**—*Payment by employer:* RCW 41.04.445.

**41.40.340 Recodified as RCW 41.40.042.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.350 Recodified as RCW 41.50.270.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.361 Recodified as RCW 41.40.045.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.363 Employer's contributions**—**Labor guild, association or organization.** Any labor guild, association, or organization qualifying as an employer under this chapter and which is required to make contributions for an elective official qualifying for membership under \*RCW 41.40.120(11) shall make contributions as any other employer within this chapter: PROVIDED, That the department shall cause an actuarial computation to be made of all prior service liability for which contributions are required from the employer to be computed on an actual dollar basis, and if the department determines that the contributions being made therefor under this chapter are insufficient to defray any cost to the state, the department shall require additional contributions from the employer in amounts and at times as will defray all costs to the state, the additional contributions to be completed within ten years from the date the elective official is accepted by the department. [1991 c 35 § 91; 1963 c 225 § 3.]

**Reviser's note:** \*(1) RCW 41.40.120 was recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.40.370 Recodified as RCW 41.40.048.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.380 Recodified as RCW 41.40.052.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.400 Recodified as RCW 41.40.055.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.403 Recodified as RCW 41.40.058.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.405 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.406 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.407 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.410 Recodified as RCW 41.40.062.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.411 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.412 Recodified as RCW 41.40.068.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.414 Recodified as RCW 41.40.073.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.420 Recodified as RCW 41.40.078.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.440 Recodified as RCW 41.40.082.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.450 Recodified as RCW 41.40.088.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.500 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.501 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.502 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.503 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.504 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.505 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.506 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.507 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.508 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.509 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.515 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.516 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.517 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.518 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.519 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.520 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.521 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.522 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.527 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.530 Recodified as RCW 41.40.092.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.535 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.540 Recodified as RCW 41.40.095.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.542 Recodified as RCW 41.40.098.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

#### "PLAN II"

**41.40.600 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.605 Provisions applicable to plan II.** The provisions of the following sections of this subchapter shall apply only to members of plan II: RCW 41.40.610; 41.40.620; 41.40.625; 41.40.630; 41.40.640; 41.40.650; 41.40.660; 41.40.670; 41.40.680; 41.40.690; 41.40.700; 41.40.710; 41.40.720; 41.40.730; 41.40.740; 41.40.900; and 41.40.920. [1991 c 35 § 106.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.610 Application to certain persons.** RCW 41.40.620 through 41.40.740 shall apply only to plan II members. [1991 c 35 § 97; 1977 ex.s. c 295 § 2.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Legislative direction and placement—1977 ex.s. c 295:** "Sections 1 through 15 of this 1977 amendatory act shall be added to chapter 41.40 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 295 § 23.]

**Section headings—1977 ex.s. c 295:** "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 295 § 22.]

**41.40.620 Computation of the retirement allowance.** A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service. [1991 c 343 § 10; 1977 ex.s. c 295 § 3.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.625 Lump sum retirement allowance—Re-entry—Limitation.** (1) On or after June 10, 1982, the director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.40.620 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.40.620 or an earned disability allowance under RCW 41.40.670 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1991 c 35 § 98; 1982 c 144 § 3.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.630 Retirement for service.** (1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has

attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1991 c 343 § 11; 1977 ex.s. c 295 § 4.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.600.

**41.40.640 Post-retirement cost-of-living.** Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 295 § 5.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.650 Employer and member contributions.** The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of

determining the amount of employer contributions to be deposited in the plan II fund from the total employer contributions collected under \*RCW 41.40.370.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. [1989 c 273 § 24; 1986 c 268 § 6; 1984 c 184 § 12; 1977 ex.s. c 295 § 6.]

**Reviser's note:** \*(1) RCW 41.40.370 was recodified as RCW 41.40.048 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**Members' retirement contributions—Payment by employer:** RCW 41.04.445.

**41.40.660 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still

living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give [give] written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1990 c 249 § 10; 1977 ex.s. c 295 § 7.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.670 Earned disability allowance—Applicability to certain judges—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. The member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section.

(3)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the

amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1991 c 35 § 99; 1990 c 249 § 21; 1989 c 191 § 3; 1982 c 18 § 5; 1977 ex.s. c 295 § 8.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.680 Application for and effective date of retirement allowances.** Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.630, 41.40.670, or 41.40.700 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.40.630 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.40.630, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.40.670 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.40.700 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 295 § 9.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.690 Suspension of retirement allowance upon reemployment—Exceptions—Reinstatement.** (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that:

(a) A retiree who ends his or her membership in the retirement system pursuant to \*RCW 41.40.120(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town; and

(b) A plan II retiree may work in eligible positions on a temporary basis for up to five months in a calendar year.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section. [1990 c 274 § 11; 1988 c 109 § 11; 1987 c 379 § 2; 1977 ex.s. c 295 § 10.]

**Reviser's note:** \*(1) RCW 41.40.120 was recodified as RCW 41.40.023 pursuant to 1991 c 35 § 10.

(2) This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Application—Reservation—1991 c 35; 1990 c 274 §§ 11, 12, 14, and 15:** "Beginning on June 7, 1990, the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 regarding postretirement employment are available prospectively to all members of the retirement systems defined in RCW 2.10.040, 41.26.005(2), 41.32.005(2), and 41.40.005(2), regardless of the member's date of retirement. The legislature reserves the right to revoke or amend the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155. The 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 do not grant a contractual right to the members or retirees of the affected systems." [1991 c 35 § 11; 1990 c 274 § 19.]

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.700 Death benefits.** (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court

order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, having an insurable interest in the member's life, as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.710 Service credit for authorized leave of absence.** A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the plan II employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner. The contributions required shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1991 c 35 § 100; 1977 ex.s. c 295 § 12.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.720 Vested membership.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.40.630 if such member maintains the member's accumulated contributions intact. [1977 ex.s. c 295 § 13.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.730 Refund of contributions.** A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to

benefits under RCW 41.40.610 through 41.40.740. [1982 1st ex.s. c 52 § 23; 1977 ex.s. c 295 § 14.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.740 Reentry.** A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1977 ex.s. c 295 § 15.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.800 Recodified as RCW 41.40.102.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.810 Recodified as RCW 41.40.105.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.40.900 Severability—1977 ex.s. c 295.** If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 295 § 24.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

**41.40.920 Effective date—1977 ex.s. c 295.** This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977. [1977 ex.s. c 295 § 25.]

**Reviser's note:** This section was directed to be recodified by 1991 c 35 as a part of a general reorganization of this chapter. The code reviser determined that the existing RCW number was appropriate under the new scheme and that recodification was not necessary.

## Chapter 41.45

### ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

#### Sections

41.45.060	Basic state contribution rate.
41.45.070	Supplemental rate.

**41.45.060 Basic state contribution rate.** Beginning September 1, 1991, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system, and the basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall be as follows:

(1) 7.47% for all members of the public employees' retirement system;

(2) 12.60% for all members of the teachers' retirement system;

(3) 16.44% for all members of the law enforcement officers' and fire fighters' retirement system; and

(4) 15.53% for all members of the Washington state patrol retirement system. [1990 c 18 § 1; 1989 c 273 § 6.]

**Effective date—1990 c 18:** "This act shall take effect September 1, 1991." [1990 c 18 § 3.]

**41.45.070 Supplemental rate.** (1) Beginning September 1, 1991, in addition to the basic employer contribution rate established in RCW 41.45.060, the department shall also charge employers of public employees' retirement system, teachers' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems after January 1, 1990. The supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) Beginning September 1, 1991, in addition to the basic state contribution rate established in RCW 41.45.060 for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system after January 1, 1990. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650, 41.32.775, or 41.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024. [1990 c 18 § 2; 1989 1st ex.s. c 1 § 1; 1989 c 273 § 7.]

Effective date—1990 c 18: See note following RCW 41.45.060.

### Chapter 41.48

## FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES

#### Sections

41.48.060	OASI contribution account.
41.48.065	OASI revolving fund.

**41.48.060 OASI contribution account.** (1) There is hereby established a special account in the state treasury to be known as the OASI contribution account. Such account shall consist of and there shall be deposited in such account: (a) All contributions and penalties collected under RCW 41.48.040 and 41.48.050; (b) all moneys appropriated thereto under this chapter; (c) any property or securities belonging to the account; and (d) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the account and all other moneys received for the account from any other source. All moneys in the account shall be mingled and undivided. Subject to the provisions of this chapter, the governor is vested with full power, authority and jurisdiction over the account, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this chapter.

(2) The OASI contribution account shall be established and held separate and apart from any other funds of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such account shall be made for, and solely for (a) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under RCW 41.48.030; (b) payment of refunds provided

for in RCW 41.48.040(3); and (c) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

(3) From the OASI contribution account the custodian of the fund [account] shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the governor in accordance with any agreement entered into under RCW 41.48.030 and the social security act.

(4) The treasurer of the state shall be ex officio treasurer and custodian of the OASI contribution account and shall administer such account in accordance with the provisions of this chapter and the directions of the governor and shall pay all warrants drawn upon it in accordance with the provisions of this section and with the regulations as the governor may prescribe pursuant thereto. [1991 1st sp.s. c 13 § 112; 1973 c 126 § 14; 1967 c 213 § 1; 1951 c 184 § 6.]

Effective dates—Severability—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

**41.48.065 OASI revolving fund.** There is hereby established a separate fund in the custody of the state treasurer to be known as the OASI revolving fund. The fund shall consist of all moneys designated for deposit in the fund. The OASI revolving fund shall be used exclusively for the purpose of this section. Withdrawals from the fund shall be made for the payment of amounts the state may be obligated to pay or forfeit by reason of any failure of any public agency to pay assessments on contributions or interest assessments required under the federal-state agreement under this chapter or federal regulations.

The treasurer of the state shall be ex officio treasurer and custodian of the fund and shall administer the fund in accordance with this chapter and the directions of the governor and shall pay all amounts drawn upon it in accordance with this section and with the regulations the governor may prescribe under this section. [1991 1st sp.s. c 13 § 111; 1983 1st ex.s. c 6 § 1.]

Effective dates—Severability—1991 1st sp.s. c 13: See notes following RCW 70.39.170.

Establishment of fund—1983 1st ex.s. c 6: "For the purpose of establishing the OASI revolving fund, the state treasurer shall transfer from the interest earnings accrued in the OASI contribution fund the sum of twenty thousand dollars to the OASI revolving fund." [1983 1st ex.s. c 6 § 2.]

### Chapter 41.50

## DEPARTMENT OF RETIREMENT SYSTEMS

#### Sections

41.50.005	Policy and intent.
41.50.055	Director of retirement systems to administer Washington law enforcement officers' and fire fighters' retirement system—Duties.
41.50.065	Accumulated service credit—Annual notification to members.
41.50.075	Funds established.
41.50.077	State treasurer is custodian of funds.
41.50.110	Department of retirement systems expense fund—Administrative expense fee.

- 41.50.132 Correction of erroneous deduction or pick-up of contributions.
- 41.50.200 Subdivision of retirement system funds.
- 41.50.205 Records—Teachers' retirement system annual report.
- 41.50.210 Medical director.
- 41.50.215 Teacher's retirement system funds—Annual interest to be credited.
- 41.50.220 Trustees, employees not to guarantee loans.
- 41.50.225 Teachers' retirement system income fund created—Source of funds.
- 41.50.230 Employer reports to department.
- 41.50.235 Teachers' retirement system salary deductions.
- 41.50.240 Duties of payroll officer.
- 41.50.250 Department of retirement systems expense fund created—Report to employers—Billings—Appropriation requests.
- 41.50.255 Payment of legal and medical expenses of retirement systems.
- 41.50.260 Public employees' retirement system funds created.
- 41.50.265 Public employees' retirement system funds—Report of the state treasurer—Members may receive reports and statements.
- 41.50.270 Transmittal of total of public employees' retirement system members' deductions.
- 41.50.500 Mandatory assignment of retirement benefits—Definitions.
- 41.50.510 Mandatory assignment of retirement benefits—Remedies—Applicability.
- 41.50.530 Mandatory assignment of retirement benefits—Proceeding to enforce spousal maintenance—Venue—Jurisdiction.
- 41.50.540 Mandatory assignment of retirement benefits—Notice to obligor.
- 41.50.550 Mandatory assignment of retirement benefits—Withdrawal of accumulated contributions—Notice to obligee—Payment to obligee.
- 41.50.560 Mandatory assignment of retirement benefits—Petition for order.
- 41.50.580 Mandatory assignment of retirement benefits—Order—Contents.
- 41.50.590 Mandatory assignment of retirement benefits—Order—Form.
- 41.50.600 Mandatory assignment of retirement benefits—Duties of department.
- 41.50.620 Mandatory assignment of retirement benefits—Order—Service.
- 41.50.630 Mandatory assignment of retirement benefits—Hearing to quash, modify, or terminate order.
- 41.50.650 Payments pursuant to court orders entered under prior law.
- 41.50.670 Property division obligations—Direct payments pursuant to court order.
- 41.50.680 Property division obligations—Processing fee.
- 41.50.690 Property division obligations—Obligee entitled to statement of obligor's retirement benefits—When.
- 41.50.700 Property division obligations—Cessation upon death of obligee or obligor—Payment treated as deduction from member's periodic retirement payment.
- 41.50.710 Property division obligations—Remedies exclusive—Payment pursuant to court order defense against claims.
- 41.50.720 Payment of benefits—Restraining orders.

**41.50.005 Policy and intent.** The legislature sets forth as retirement policy and intent:

- (1) The retirement systems of the state shall provide similar benefits wherever possible.
- (2) Persons hired into eligible positions shall accrue service credit for all service rendered.
- (3) The calculation of benefits shall be done in such a manner as to prevent the arithmetic lowering of benefits.

(4) Liberalization of the granting of service credit shall not jeopardize part-time employment of retirees in ineligible positions. [1991 c 343 § 2.]

**Findings—1991 c 343:** "The legislature finds:

(1) There is a dichotomy in the provision of service credit within the major two retirement systems of the state. Within plan I of the public employees' retirement system, credit is given in whole months upon completing seventy hours per month. Within plan I of the teachers' retirement system, full annual service credit is given for full-time employment of four-fifths or more of a school year and partial annual service credit is given for employment of less than four-fifths of a school year but more than twenty days in a school year. Plan II of both the public employees' and teachers' retirement systems' full monthly service credit is based on completing ninety hours in each month.

(2) There is an expressed interest by public employers in encouraging job-sharing or tandem positions wherein two persons perform one job. This is seen as opening up job opportunities for those persons who have family responsibilities prohibiting full-time employment." [1991 c 343 § 1.]

**Effective dates—1991 c 343:** "(1) Sections 3 through 11 and 14 through 18 of this act shall take effect September 1, 1991.

(2) The remainder of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 343 § 19.]

**41.50.055 Director of retirement systems to administer Washington law enforcement officers' and fire fighters' retirement system—Duties.** The administration of the Washington law enforcement officers' and fire fighters' retirement system is hereby vested in the director of retirement systems, and the director shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

(2) As of March 1, 1970, and at least every two years thereafter, through the state actuary, make an actuarial valuation as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the Washington law enforcement officers' and fire fighters' retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Keep a record of all its proceedings, which shall be open to inspection by the public;

(5) From time to time adopt such rules and regulations not inconsistent with chapter 41.26 RCW, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the system;

(6) Prepare and publish annually a financial statement showing the condition of the Washington law enforcement officers' and fire fighters' fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Washington law enforcement officers' and fire fighters' retirement system, and furnish a copy thereof to each employer, and to such members as may request copies thereof;

(7) Perform such other functions as are required for the execution of the provisions of chapter 41.26 RCW;

(8) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the

Washington law enforcement officers' and fire fighters' fund for the preceding twelve-month period and from time to time make any necessary changes in such rate;

(9) Pay from the department of retirement systems expense fund the expenses incurred in administration of the Washington law enforcement officers' and fire fighters' retirement system from those funds appropriated for that purpose;

(10) Perform any other duties prescribed elsewhere in chapter 41.26 RCW;

(11) Issue decisions relating to appeals initiated pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended and shall be authorized to order increased benefits pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended. [1991 c 35 § 16; 1982 c 163 § 6; 1981 c 3 § 27; 1975-'76 2nd ex.s. c 44 § 3; 1971 ex.s. c 216 § 1; 1969 ex.s. c 209 § 6. Formerly RCW 41.26.060.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—**Effective date**—1982 c 163: See notes following RCW 2.10.052.

**Intent of amendment**—1981 c 3: See note following RCW 2.10.080.

**Effective dates**—**Severability**—1981 c 3: See notes following RCW 43.33A.010.

**Severability**—1971 ex.s. c 216: "If any provision of this act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 216 § 4.]

**41.50.065 Accumulated service credit**—**Annual notification to members.** (1) The department shall annually notify each member of each retirement system listed in RCW 41.50.030 of his or her:

(a) Service credit accumulated in the preceding calendar year; and

(b) Total service credit accumulated.

(2) The department shall begin notifying members under this section according to the following schedule:

(a) All members of the teachers' retirement system shall begin receiving annual notification of accumulated service credit and service credit earned within the preceding school year or one school year, as appropriate, no later than January 1, 1991;

(b) All members, other than members of the teachers' retirement system, shall begin receiving annual notification of service credit accumulated within the preceding calendar year or school year, as appropriate, no later than June 30, 1992;

(c) All members within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated no later than October 1, 1993;

(d) Members, other than members of the teachers' retirement system, who are not within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated according to the following schedule:

(i) For members of the law enforcement officers' and fire fighters' retirement system, Washington state patrol retirement system, judicial retirement system, and

judges' retirement system, no later than August 30, 1993;

(ii) For employees of the state of Washington who are members of the public employees' retirement system, no later than August 30, 1994;

(iii) For employees of political subdivisions of the state of Washington, no later than January 31, 1995;

(iv) For employees of institutions of higher education as defined in RCW 28B.10.016, no later than June 30, 1995; and

(v) For school district employees who are members of the public employees' retirement system, no later than April 30, 1996.

(3) The department shall adopt rules implementing this section. [1991 c 282 § 1; 1990 c 8 § 2.]

**Findings**—1990 c 8: "The legislature recognizes that:

(1) It is important that members of the retirement system are informed about the amount of service credit they have earned. Untimely and inaccurate reporting by employers hampers the department's ability to inform members of the service credit they have earned;

(2) Requiring a transfer of funds from the retirement accounts of members of the public employees' retirement system and the law enforcement officers' and fire fighters' retirement system to the expense funds of those systems does not represent added revenue to the systems but is instead a transfer from the trust fund to the expense fund that causes administrative costs and results in a loss to the system or to the member; and

(3) A standardized time period for school administrator contracts and a prohibition against retroactive revision of those contracts is needed to prevent potential abuses of the average final compensation calculation process." [1990 c 8 § 1.]

**41.50.075 Funds established.** (1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan I retirement fund, and the Washington law enforcement officers' and fire fighters' system plan II retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan II.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan I fund and the teachers' retirement system plan II fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan II.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan I fund and the public employees' [retirement system] plan II fund. The plan I fund shall

consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan II. [1991 c 35 § 108.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.077 State treasurer is custodian of funds.** The state treasurer is the custodian of, and accountant for, all funds and holdings of the retirement systems listed in RCW 41.50.030. [1991 c 35 § 109.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.110 Department of retirement systems expense fund—Administrative expense fee.** (1) Notwithstanding any provision of law to the contrary, the retirement system expense fund is hereby redesignated as the department of retirement systems expense fund from which shall be paid the expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, and 43.43 RCW.

(2) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(3) All employers shall pay a standard fee to the department to cover the cost of administering the system. An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section. [1990 c 8 § 3; 1979 ex.s. c 249 § 8.]

**Findings**—1990 c 8: See note following RCW 41.50.065.

*Department of retirement systems expense fund: RCW 41.50.250.*

**41.50.132 Correction of erroneous deduction or pick-up of contributions.** (1) By December 31, 1992, the department of retirement systems shall implement and complete the following process for those members of the law enforcement officers' and fire fighters' retirement system plan II, public employees' retirement system plans I and II, and teachers' retirement system plan II who erroneously had contributions either deducted or picked-up from their earnings on and after January 1, 1987:

(a) Create a list of transactions by employer for those members whose employer either deducted or picked-up employee contributions during a month where an employee did not work sufficient hours to earn service credit;

(b) Provide the affected employers with direction and guidance for the review of the transmitted lists from this subsection and the employers' preparation of any necessary correcting transactions to the department's records;

(c) Receive all correcting transactions submitted by the employer.

(2) All debits and credits to all member accounts affected by this remedial process shall be reconciled by the department.

(3) All moneys payable to an affected member, or any moneys to be further deducted or picked-up from such member's earnings, shall be determined and accomplished solely by the employer.

(4) After December 31, 1992, no credit of employer contributions shall be made.

(5) Return of contributions to an employee by the department is limited solely to when such member retires or otherwise terminates his or her membership and chooses to withdraw them with any accumulated interest.

(6) Employer contributions forfeited under this section shall be transferred to the department of retirement systems expense account. [1991 c 343 § 13.]

**Findings**—**Effective dates**—1991 c 343: See notes following RCW 41.50.005.

**41.50.200 Subdivision of retirement system funds.** In the records of the teachers' retirement system the \*teachers' retirement fund plan I fund shall be subdivided into the annuity fund, the annuity reserve fund, the survivors' benefit fund, the pension reserve fund, the disability reserve fund, the death benefit fund, the \*\*income fund, the expense fund, and other funds as may from time to time be created by the director for the purpose of the internal accounting record. [1991 c 35 § 32; 1989 c 273 § 16; 1982 1st ex.s. c 52 § 7; 1969 ex.s. c 150 § 1; 1963 ex.s. c 14 § 2; 1955 c 274 § 2; 1947 c 80 § 3; Rem. Supp. 1947 § 4995–28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995–3, part. Formerly RCW 41.32.030.]

**Reviser's note:** \*(1) The reference to the "teachers' retirement fund plan I fund" was apparently intended to be a reference to the "teachers' retirement system plan I fund."

\*\* (2) The "income fund" was redesignated the "teachers' retirement system income fund" by 1991 c 35 § 50.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—**Effective dates**—1989 c 273: See RCW 41.45.900 and 41.45.901.

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**Effective date**—1969 ex.s. c 150: "The provisions of sections 1 through 20 of this 1969 amendatory act shall take effect on July 1, 1969." [1969 ex.s. c 150 § 21.] For codification of 1969 ex.s. c 150, see Codification Tables, Volume 0.

**41.50.205 Records—Teachers' retirement system annual report.** The department shall keep a record of all its proceedings, which shall be open to public inspection.

It shall publish annually a report showing the fiscal transactions of the Washington state teachers' retirement system for the preceding school year; the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. [1991 c 35 § 33; 1969 ex.s. c 150 § 4; 1947 c 80 § 12; Rem. Supp. 1947 § 4995-31. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.120.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**41.50.210 Medical director.** The director shall designate a medical director. If required, other physicians may be employed to report on special cases. The medical director shall arrange for and pass upon all medical examinations required under the provisions of this chapter, investigate all essential statements and certificates by or on behalf of a member in connection with an application for a disability allowance, and report in writing to the board of trustees the conclusions and recommendations upon all matters under referral. [1991 c 35 § 34; 1947 c 80 § 13; Rem. Supp. 1947 § 4995-32. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.130.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.215 Teacher's retirement system funds—Annual interest to be credited.** From interest and other earnings on the moneys of the Washington state teachers' retirement system, and except as otherwise provided in RCW \*41.32.405 and 41.32.499, at the close of each fiscal year the department shall make an allowance of regular interest on the balance which was on hand at the beginning of the fiscal year in each of the teachers' retirement system funds as they may deem advisable; however, no interest shall be credited to the expense fund or the pension fund. [1991 c 35 § 36; 1973 1st ex.s. c 189 § 7; 1955 c 274 § 5; 1947 c 80 § 19; Rem. Supp. 1947 § 4995-38. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.190.]

**\*Reviser's note:** RCW 41.32.405 was recodified as RCW 41.50.225 pursuant to 1991 c 35 § 6.

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1973 1st ex.s. c 189: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 189 § 12.] For codification of 1973 1st ex.s. c 189, see Codification Tables, Volume 0.

**41.50.220 Trustees, employees not to guarantee loans.** No trustee or employee of the department shall become an endorser or surety or an obligor for moneys loaned by the department. [1991 c 35 § 37; 1947 c 80 § 23; Rem. Supp. 1947 § 4995-42. Prior: 1941 c 97 § 6,

part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.230.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.225 Teachers' retirement system income fund created—Source of funds.** The teachers' retirement system income fund is hereby created for the purpose of crediting regular interest and other income as may be derived from the deposits and investments of the various funds of the teachers' retirement fund. All accumulated contributions in the account of a terminated employee who is a member of the Washington teachers' retirement system, except as provided for in RCW 41.32.500 (1) through (3), 41.32.510, 41.32.810, and 41.32.815, shall be transferred to the teachers' retirement system income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the teachers' retirement system income fund to the teachers' retirement system annuity fund and the former employee's account reestablished with all the rights which would have been due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the teachers' retirement system income fund had not occurred. Any moneys that may come into the possession of the Washington teachers' retirement system in the form of gifts or bequests which are not allocated to a specific fund, or any other moneys the disposition of which is not otherwise provided herein, shall be credited to the teachers' retirement system income fund. The moneys accumulated in the teachers' retirement system income fund shall be available for transfer, upon the director's authorization, to the various funds of the teachers' retirement fund; however, no interest may be credited to the teachers' retirement system pension fund: **PROVIDED**, That from such accumulated moneys the director shall have sole discretion to determine an amount thereof to be credited to the teachers' retirement system annuity fund which will thereupon be credited as regular interest to the individual members' accounts except that any accrued interest shall be credited at least annually to the individual members' accounts. [1991 c 35 § 50; 1984 c 236 § 2; 1982 1st ex.s. c 52 § 11; 1973 1st ex.s. c 189 § 8; 1969 ex.s. c 150 § 12. Formerly RCW 41.32.405.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective date**—1984 c 236: "This act shall take effect September 1, 1985. However, rules necessary for the implementation of this act may be promulgated by appropriate state agencies prior to the effective date." [1984 c 236 § 6.]

**Severability**—1984 c 236: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 236 § 5.]

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

**Severability**—1973 1st ex.s. c 189: See note following RCW 41.50.215.

**Effective date**—1969 ex.s. c 150: See note following RCW 41.50.200.

**41.50.230 Employer reports to department.** On or before a date specified by the department in each month every employer shall file a report with the department on a form provided, stating the name of the employer and with respect to each employee who is a member or who is required to become a member of the Washington state teachers' retirement system: (1) The full name, (2) the earnable compensation paid, (3) the employee's contribution to the retirement system, and (4) other information as the department shall require. [1991 c 35 § 51; 1983 c 56 § 14; 1975-'76 2nd ex.s. c 16 § 1. Prior: 1975 1st ex.s. c 275 § 150; 1975 c 43 § 32; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995-61. Formerly RCW 41.32.420.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1983 c 56: See note following RCW 28A.195.010.

**Effective date**—**Severability**—1975 c 43: See notes following RCW 28A.315.230.

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

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

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.50.235 Teachers' retirement system salary deductions.** Every officer authorized to issue salary warrants to teachers shall deduct from the salary payments to any member of the Washington state teachers' retirement system plan I regularly employed an amount which will result in total deductions of six percent of the amount of earnable compensation paid in any fiscal year. These deductions shall be transmitted and reported to the retirement system as directed by the department. [1991 c 35 § 52; 1967 c 50 § 5; 1963 ex.s. c 14 § 14; 1955 c 274 § 20; 1947 c 80 § 43; Rem. Supp. 1947 § 4995-62. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.430.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

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

**Savings**—**Severability**—**Effective date**—1963 ex.s. c 14: See notes following RCW 41.32.010.

**41.50.240 Duties of payroll officer.** The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the department may require showing thereon all deductions for contributions for the teachers' retirement system made from the earnable compensation of a member of the teachers' retirement system together with warrants or checks covering the total of such deductions. The department shall place such moneys into the proper funds established in this chapter. [1977 ex.s. c 293 § 17. Formerly RCW 41.32.830.]

**Effective date**—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.755.

**41.50.250 Department of retirement systems expense fund created—Report to employers—Billings—Appropriation requests.** (1) There is hereby established in the state treasury the department of retirement systems expense fund, from which shall be paid the expenses of the administration of the retirement systems established in chapters 41.26, 41.32, and 41.40 RCW.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the said administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each such employer shall be made on a percentage rate of salary established by the department: PROVIDED, That the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) For the purpose of providing amounts to be used to defray the cost of such administration, the department shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the department of retirement systems expense fund sufficient to cover estimated expenses for the said biennium. [1991 c 35 § 72; 1989 c 273 § 21; 1981 c 3 § 32; 1969 c 128 § 4; 1963 c 174 § 6; 1955 c 220 § 2; 1953 c 200 § 3; 1949 c 240 § 5; 1947 c 274 § 9; Rem. Supp. 1949 § 11072-9. Formerly RCW 41.40.080.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—**Effective dates**—1989 c 273: See RCW 41.45.900 and 41.45.901.

**Intent of amendment**—1981 c 3: See note following RCW 2.10.080.

**Effective dates**—**Severability**—1981 c 3: See notes following RCW 43.33A.010.

**Severability**—1969 c 128: See note following RCW 41.40.010.  
*Department of retirement systems expense fund: RCW 41.50.110.*

**41.50.255 Payment of legal and medical expenses of retirement systems.** The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and

medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1991 c 35 § 73; 1984 c 184 § 7. Formerly RCW 41.40.083.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Severability**—1984 c 184: See note following RCW 41.50.150.

**41.50.260 Public employees' retirement system funds created.** For the purpose of the internal accounting record of the public employees' retirement system and not the segregation of moneys on deposit with the state treasurer there are hereby created the employees' savings fund, the benefit account fund, the public employees' income fund and such other funds as may from time to time be required.

(1) The employees' savings fund shall be the fund in which shall be accumulated the contributions from the compensation of public employees' retirement system members. The director shall provide for the maintenance of an individual account for each member of the public employees' retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to the former employee upon the individual's withdrawal from service, or paid in event of the employee's or former employee's death, as provided in chapter 41.40 RCW, shall be paid from the employees' savings fund. The accumulated contributions of a member, upon the commencement of the individual's retirement, shall be transferred from the employees' savings fund to the benefit account fund.

(2) The benefit account fund shall be the fund in which shall be accumulated the reserves for the payment of all public employees' retirement system retirement allowances and death benefits, if any, in respect of any beneficiary. The amounts contributed by all public employees' retirement system employers to provide pension benefits shall be credited to the benefit account fund. The benefit account fund shall be the fund from which shall be paid all public employees' retirement system retirement allowances, or benefits in lieu thereof because of which reserves have been transferred from the employees' savings fund to the benefit account fund. At the time a recipient of a retirement allowance again becomes a member of the public employees' retirement system, the department shall transfer from the benefit account fund to the employees' savings fund and credit to the individual account of such a member a sum equal to the excess, if any, of the individual's account at the date of

the member's retirement over any service retirement allowance received since that date.

(3) A public employees' income fund is hereby created for the purpose of crediting interest on the amounts in the various other public employees' retirement system funds with the exception of the department of retirement systems expense fund, and to provide a contingent fund out of which special requirements of any of the other such funds may be covered. The director shall determine when a distribution of interest and other earnings of the public employees' retirement system shall take place. The amounts to be credited and the methods for distribution to each of the funds enumerated in subsections (1) and (2) of this section and for special requirements previously mentioned in this subsection shall be at the director's discretion.

All accumulated contributions standing to the account of a terminated member of the public employees' retirement system except as provided in RCW 41.40.150(4), 41.40.170, 41.40.710, and 41.40.720 shall be transferred from the employees' savings fund to the public employees' income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the public employees' income fund to the savings fund and the former employee's account reestablished with all the rights which would have been due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the public employees' income fund had not occurred. All income, interest, and dividends derived from the deposits and investments authorized by chapter 41.40 RCW shall be paid into the public employees' income fund with the exception of interest derived from sums deposited in the department of retirement systems expense fund. The director on behalf of the retirement system is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the public employees' retirement system in such manner, or any funds which may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by chapter 41.40 RCW, or any other moneys the disposition of which is not otherwise provided for, shall be credited to the public employees' income fund. [1991 c 35 § 74; 1982 1st ex.s. c 52 § 18; 1973 1st ex.s. c 190 § 4; 1972 ex.s. c 151 § 2; 1967 c 127 § 2; 1963 c 174 § 7; 1953 c 200 § 4; 1949 c 240 § 6; 1947 c 274 § 11; Rem. Supp. 1949 § 11072-11. Formerly RCW 41.40.100.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**Effective dates**—1982 1st ex.s. c 52: See note following RCW 2.10.180.

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

**41.50.265 Public employees' retirement system funds—Report of the state treasurer—Members may receive reports and statements.** The state treasurer shall furnish annually to the department a statement of

the amount of the funds in the treasurer's custody belonging to the public employees' retirement system. Copies of this annual report shall be available to public employees' retirement system members upon request. The records of the department shall be open to public inspection. Any member of the public employees' retirement system shall be furnished with a statement of the amount to the credit of his or her individual account in the employees' savings fund upon his or her written request, provided that the department shall not be required to answer more than one such request of any member in any one year. [1991 c 35 § 75; 1947 c 274 § 12; Rem. Supp. 1947 § 11072-12. Formerly RCW 41.40.110.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.270 Transmittal of total of public employees' retirement system members' deductions.** The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or any other payroll report as the department may require showing thereon all deductions for the public employees' retirement system made from the compensation earnable of each member, together with warrants or checks covering the total of the deductions. The department after making a record of all receipts shall pay them to the state treasurer for use according to the provisions of chapter 41.40 RCW. [1991 c 35 § 90; 1977 ex.s. c 295 § 19; 1947 c 274 § 36; Rem. Supp. 1947 § 11072-36. Formerly RCW 41.40.350.]

**Intent**—1991 c 35: See note following RCW 41.26.005.

**41.50.500 Mandatory assignment of retirement benefits—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, RCW 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), or 41.40.660(1), that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member. [1991 c 365 § 1; 1987 c 326 § 1.]

**Severability**—1991 c 365: "If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 365 § 37.]

**41.50.510 Mandatory assignment of retirement benefits—Remedies—Applicability.** (1) The remedies provided in RCW 41.50.530 through 41.50.650 and 26.09.138 are in addition to, and not in substitution for, any other remedies provided by law to enforce a dissolution order against an obligor.

(2) The remedies provided in RCW 41.50.530 through 41.50.630 shall be the exclusive remedies enforceable against the department of retirement systems or the retirement systems listed in RCW 41.50.030 to recover spousal maintenance pursuant to a dissolution, divorce, or legal separation order.

(3) RCW 41.50.530 through 41.50.650 and 26.09.138 apply to all dissolution orders incident to a decree of divorce, dissolution, or legal separation whether entered before or after July 1, 1987. [1991 c 365 § 2; 1987 c 326 § 2.]

**Severability**—1991 c 365: See note following RCW 41.50.500.

**41.50.530 Mandatory assignment of retirement benefits—Proceeding to enforce spousal maintenance—Venue—Jurisdiction.** (1) A proceeding to enforce a

duty of spousal maintenance through a mandatory benefits assignment order may be commenced by an obligee:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county of the state of Washington where the obligee resides or is present, where the obligor resides, or where the prior dissolution order was entered.

(3) The court retains continuing jurisdiction under RCW 41.50.500 through 41.50.650 and 26.09.138 until the obligor has satisfied all duties of spousal maintenance, including arrearages, to the obligee. [1991 c 365 § 3; 1987 c 326 § 4.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.540 Mandatory assignment of retirement benefits—Notice to obligor.** (1) Every court order or decree establishing a spousal maintenance obligation may state that if any such payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without prior notice to the obligor. Failure to include this provision does not affect the validity of the dissolution order.

(2) If the dissolution order under which the obligor owes the duty of spousal maintenance is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days before the obligee seeks a mandatory benefits assignment order. The notice shall state that, if a spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional. [1991 c 365 § 4; 1987 c 326 § 5.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.550 Mandatory assignment of retirement benefits—Withdrawal of accumulated contributions—Notice to obligee—Payment to obligee.** (1) An obligee who wishes to be notified by the department of retirement systems if the obligor seeks a withdrawal of accumulated contributions shall submit such a request to the department in writing on a form supplied by the department. The request shall be filed by certified or registered mail and shall include the obligee's address and a copy of the dissolution order requiring the spousal maintenance owed.

(2) The department shall thereafter promptly send notice to the obligee at the address provided in subsection (1) of this section when the obligor applies for a withdrawal of accumulated contributions. The department shall not process the obligor's request for a withdrawal of accumulated contributions sooner than seventy-five days after sending the notice to the obligee.

(3) The department shall pay directly to an obligee who has not obtained a mandatory benefits assignment order all or part of the accumulated contributions if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states:

"At such time as \_\_\_\_\_ (the obligor) requests a withdrawal of accumulated contributions as defined in RCW 41.50.500, the department of retirement systems shall pay to \_\_\_\_\_ (the obligee) \_\_\_\_\_ dollars from such accumulated contributions or \_\_\_ percentage of such accumulated contributions (whichever is provided by the court)." [1991 c 365 § 5; 1987 c 326 § 6.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.560 Mandatory assignment of retirement benefits—Petition for order.** (1) A petition or motion seeking a mandatory benefits assignment order in an action under RCW 41.50.530 may be filed by an obligee if the obligor is more than fifteen days past due in spousal maintenance payments and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the mandatory benefits assignment order, including:

(a) That the obligor, stating his or her name, residence, and social security number, (i) is more than fifteen days past due in spousal maintenance payments and that the total of such past due payments is equal to or greater than one hundred dollars, or (ii) has requested a withdrawal of accumulated contributions from the department of retirement systems;

(b) A description of the terms of the dissolution order requiring payment of spousal maintenance and the amount, if any, past due;

(c) The name of the public retirement system or systems from which the obligor is currently receiving periodic retirement benefits or from which the obligor has requested a withdrawal of accumulated contributions; and

(d) That notice has been provided to the obligor as required by RCW 41.50.540.

(2) If the court in which a mandatory benefits assignment order is sought does not already have a copy of the dissolution order in the court file, then the obligee shall attach a copy of the dissolution order to the petition or motion seeking the mandatory benefits assignment order. [1991 c 365 § 6; 1987 c 326 § 7.]

**Severability—1991 c 365:** See note following RCW 41.50.500.



(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance amount; or

(ii) Fifty percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

**NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.**

DATED THIS ..... day of ....., 19..

-----  
Obligee, Judge/Court Commissioner  
or obligee's attorney

[1991 c 365 § 8; 1987 c 326 § 10.]

Severability—1991 c 365: See note following RCW 41.50.500.

**41.50.600 Mandatory assignment of retirement benefits—Duties of department.** (1) The director or the director's designee shall answer an order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor receives periodic

payments from the department of retirement systems, whether the obligor has requested a withdrawal of accumulated contributions from the department, whether the department will honor the mandatory benefits assignment order and if not, the reasons why, and whether there are other current court or administrative orders on file with the department directing the department to withhold all or a portion of the obligor's benefits.

(2)(a) If any periodic retirement payments are currently payable to the obligor, the funds subject to the mandatory benefits assignment order shall be withheld from the next periodic retirement payment due twenty days or more after receipt of the mandatory benefits assignment order. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after receipt of the mandatory benefits assignment order.

(b) The department shall continue to withhold the ordered amount from nonexempt benefits of the obligor until notified by the court that the mandatory benefits assignment order has been modified or terminated. If the department is initially unable to comply, or able to comply only partially, with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible at the earliest possible date. The department shall notify the court of changes in withholding amounts and the reason for the change. When the obligor is no longer eligible to receive funds from one or more public retirement systems the department shall promptly notify the court.

(3)(a) If no periodic retirement payments are currently payable to the obligor but the obligor has requested a withdrawal of accumulated contributions, the funds subject to the mandatory benefits assignment order shall be withheld from the withdrawal payment. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order.

(b) If the department is unable to comply fully with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible.

(4) The department may deduct a processing fee from the remainder of the obligor's funds after withholding under the mandatory benefits assignment order, unless the remainder is exempt under RCW 41.50.580. The processing fee may not exceed (a) twenty-five dollars for the first disbursement made by the department to the superior court clerk; and (b) six dollars for each subsequent disbursement to the clerk. Funds collected pursuant to this subsection shall be deposited in the department of retirement systems expense fund.

(5) A court order for spousal maintenance governed by RCW 41.50.500 through 41.50.650 or 26.09.138 shall have priority over any other assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized under Washington law, except for a mandatory wage assignment for child support under chapter 26.18 RCW, or an order to withhold and deliver under chapter 74.20A RCW.

(6) If the department, without good cause, fails to withhold funds as required by a mandatory benefits assignment order issued under RCW 41.50.570, the department may be held liable to the obligee for any amounts wrongfully disbursed to the obligor in violation of the mandatory benefits assignment order. However, the department shall under no circumstances be held liable for failing to withhold funds from a withdrawal of accumulated contributions unless the mandatory benefits assignment order was properly served on the department at least thirty days before the department made the withdrawal payment to the obligor. If the department is held liable to an obligee for failing to withhold funds as required by a mandatory benefits assignment order, the department may recover such amounts paid to an obligee by thereafter either withholding such amounts from the available nonexempt benefits of the obligor or filing a legal action against the obligor.

(7) If the department complies with a court order pursuant to RCW 41.50.500 through 41.50.650, neither the department, its officers, its employees, nor any of the retirement systems listed in RCW 41.50.030 may be liable to the obligor or an obligee for wrongful withholding.

(8) The department may combine amounts withheld from various obligors into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each obligor and other information as required by the clerk.

(9) The department shall mail to the obligor at the obligor's last known mailing address appearing in the department's files copies of the mandatory benefits assignment order and the department's answer within twenty days after receiving the mandatory benefits assignment order.

(10) The department shall not consider any withholding allowance that is elective to the employee to be a mandatory deduction for purposes of calculating the member's disposable benefits subject to a mandatory benefits assignment order. The department shall withhold elective withholdings as elected by the employee after deducting from the benefit the amount owing to an obligee pursuant to a mandatory benefits assignment order. [1991 c 365 § 9; 1987 c 326 § 11.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.620 Mandatory assignment of retirement benefits—Order—Service.** (1) Service of the mandatory benefits assignment order on the department is invalid unless it is served with four answer forms in conformance with RCW 41.50.610, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor at the last mailing address known to the obligee. The obligee shall also include an extra copy of the mandatory benefits assignment order for the department to mail to the obligor. Service on the department shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the mandatory benefits assignment order on the department, the obligee

shall mail or cause to be mailed by certified or registered mail a copy of the mandatory benefits assignment order to the obligor at the obligor's last mailing address known to the obligee; or, in the alternative, a copy of the mandatory benefits assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the department. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection requires, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the mandatory benefits assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has been prejudiced due to the failure to mail or serve the copy. [1991 c 365 § 10; 1987 c 326 § 13.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.630 Mandatory assignment of retirement benefits—Hearing to quash, modify, or terminate order.** In a hearing to quash, modify, or terminate the mandatory benefits assignment order, the court may grant relief only upon a showing that the mandatory benefits assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the mandatory benefits assignment order is not grounds to quash, modify, or terminate the mandatory benefits assignment order. If a mandatory benefits assignment order has been in operation for twelve consecutive months and the obligor's spousal maintenance is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the mandatory benefits assignment order should remain in effect. [1991 c 365 § 11; 1987 c 326 § 14.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.650 Payments pursuant to court orders entered under prior law.** (1) Notwithstanding RCW 2.10.180(1), 2.12.090(1), 41.26.180(1), \*41.32.590(1), \*\*41.40.380(1), and 43.43.310(1) as those sections existed between July 1, 1987, and July 28, 1991, the department of retirement systems shall make direct payments of benefits to a spouse or ex spouse pursuant to court orders or decrees entered before July 1, 1987, that complied with all the requirements in RCW 2.10.180(1), 2.12.090(2), 41.26.180(3), \*41.32.590(3), \*\*41.40.380(3), 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements existed before July 1, 1987. The department shall be responsible for making direct payments only if the decree or court order expressly orders the department to make direct payments to the spouse or ex spouse and specifies a sum certain or percentage amount of the benefit payments to be made to the spouse or ex spouse.

(2) The department of retirement systems shall notify a spouse or ex spouse who, pursuant to a mandatory benefits assignment order entered between July 1, 1987, and July 28, 1991, is receiving benefits in satisfaction of

a court-ordered property division, that he or she is entitled to receive direct payments of a court-ordered property division pursuant to RCW 41.50.670 if the dissolution order fully complies or is modified to fully comply with the requirements of RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.180, \*41.32.590, \*\*41.40.380, 43.43.310, and 26.09.138. The department shall send notice in writing as soon as reasonably feasible but no later than ninety days after July 28, 1991. The department shall also send notice to the obligor member spouse. [1991 c 365 § 12; 1987 c 326 § 16.]

**Reviser's note:** \*(1) RCW 41.32.590 was recodified as RCW 41.32.052 pursuant to 1991 c 35 § 9.

\*\* (2) RCW 41.40.380 was recodified as RCW 41.40.052 pursuant to 1991 c 35 § 10.

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.670 Property division obligations—Direct payments pursuant to court order.** (1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180, \*41.32.590, \*\*41.40.380, 43.43.310, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If ----- (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to ----- (the obligee) ----- dollars from such payments or --- percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If ----- (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems

shall pay to ----- (the obligee) ----- dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.180, \*41.32.590, \*\*41.40.380, 43.43.310, and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i). [1991 c 365 § 13.]

**Reviser's note:** \*(1) RCW 41.32.590 was recodified as RCW 41.32.052 pursuant to 1991 c 35 § 9.

\*\* (2) RCW 41.40.380 was recodified as RCW 41.40.052 pursuant to 1991 c 35 § 10.

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.680 Property division obligations—Processing fee.** The department may deduct a processing fee for administering direct payments under RCW 41.50.670 according to the dissolution order. The fee may not exceed (1) seventy-five dollars or the actual average administrative costs, whichever is less, for the first disbursement made by the department; and (2) six dollars or the actual average administrative costs, whichever is less for subsequent disbursements. The department shall deduct the fee in equal dollar amounts from the obligee's and obligor's payments. The funds collected pursuant to this section shall be deposited in the department of retirement systems expense account. [1991 c 365 § 14.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.690 Property division obligations—Obligee entitled to statement of obligor's retirement benefits—When.** Unless otherwise prohibited by federal law, following both the initial and final postretirement audit of

an obligor's retirement benefit, the department shall provide an obligee entitled to direct payment of retirement benefits pursuant to a dissolution order under RCW 41.50.670 with a statement of monthly retirement benefit allowance to be paid to the obligor, and other retirement benefit information available to the obligor including the average final compensation, total years of service, retirement date, the amount of the employee contributions made prior to implementation of employer pickup under RCW 41.04.445 and 41.04.450, and savings and interest. [1991 c 365 § 15.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.700 Property division obligations—Cessation upon death of obligee or obligor—Payment treated as deduction from member's periodic retirement payment.**

(1) The department's obligation to provide direct payment of a property division obligation to an obligee under RCW 41.50.670 shall cease upon the death of the obligee or upon the death of the obligor, whichever comes first. However, if an obligor dies and is eligible for a lump sum death benefit, the department shall be obligated to provide direct payment to the obligee of all or a portion of the withdrawal of accumulated contributions pursuant to a court order that complies with RCW 41.50.670.

(2) The direct payment of a property division obligation to an obligee under RCW 41.50.670 shall be paid as a deduction from the member's periodic retirement payment. An obligee may not direct the department to withhold any funds from such payment. [1991 c 365 § 16.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.710 Property division obligations—Remedies exclusive—Payment pursuant to court order defense against claims.**

(1) The remedies provided in RCW 41.50.670 through 41.50.720 are the exclusive remedies enforceable against the department or the retirement systems listed in RCW 41.50.030 for the direct payment of retirement benefits to satisfy a property division obligation pursuant to a dissolution order. The department shall not be required to make payments to an obligee of benefits accruing prior to (a) thirty calendar days following service of the dissolution order on the department; or (b) benefit payments restrained under RCW 41.50.720.

(2) Whenever the department of retirement systems makes direct payments of property division to a spouse or ex spouse under RCW 41.50.670 to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the department for the department to show that the payments were made pursuant to court decree. [1991 c 365 § 17.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**41.50.720 Payment of benefits—Restraining orders.** A party to a dissolution proceeding may file a motion with the court requesting the court to enter an order restraining the department from paying any benefits to a member until further order of the court. The department shall not initiate payment of benefits to a member from the time a restraining order is served on the department until the court enters a further order disposing of the benefits. [1991 c 365 § 25.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Chapter 41.54**

**PORTABILITY OF PUBLIC RETIREMENT BENEFITS**

Sections	
41.54.010	Definitions.
41.54.030	Calculation of service retirement allowance.
41.54.040	Payment of retirement allowance and postretirement adjustments—Death benefit.
41.54.060	Repealed.
41.54.061	Seattle, Spokane, Tacoma—Irrevocable election for coverage under chapter—Effective dates.

**41.54.010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, and 43.43 RCW and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure

set forth in RCW 41.54.061. [1990 c 192 § 1; 1988 c 195 § 1; 1987 c 192 § 1.]

**41.54.030 Calculation of service retirement allowance.** (1) A dual member's service in all systems may be combined for the sole purpose of determining the member's eligibility to receive a service retirement allowance.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age shall be either actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system, or the dual member may choose to defer the benefit until fully eligible. [1990 c 192 § 2; 1988 c 195 § 2; 1987 c 192 § 3.]

**41.54.040 Payment of retirement allowance and postretirement adjustments—Death benefit.** (1) Except where subsection (4) of this section applies, retirement allowances calculated under RCW 41.54.030 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) If a dual member dies in service in any system, the surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death based on service actually established in that system. However, this subsection does not make a surviving spouse eligible for the survivor benefits provided in RCW 43.43.270.

(4) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, or 43.43 RCW and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the entire additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the city retirement system that the person is a member of. [1990 c 192 § 5; 1988 c 195 § 3; 1987 c 192 § 4.]

**41.54.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, Supplement Volume 9A.

**41.54.061 Seattle, Spokane, Tacoma—Irrevocable election for coverage under chapter—Effective dates.**

(1) The cities of Seattle, Spokane, and Tacoma shall each have the option of making an irrevocable election to have its employee retirement system included in the

coverage of this chapter by adopting a resolution transmitting it to the director and the joint committee on pension policy prior to December 1, 1990.

The resolution shall indicate the city's desire to be covered by this chapter and its willingness to pay for the cost of the benefits provided by this chapter.

(2) This chapter shall become effective on January 1, 1991, for each city which adopts a resolution pursuant to subsection (1) of this section. However, if all three cities adopt such resolutions prior to June 1, 1990, the provisions of this chapter shall become effective for those systems on July 1, 1990. [1990 c 192 § 3.]

## Chapter 41.56

### PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

#### Sections

41.56.024	Application of chapter to classified employees of technical colleges.
41.56.030	Definitions.

**41.56.024 Application of chapter to classified employees of technical colleges.** In addition to the entities listed in RCW 41.56.020, this chapter shall apply to classified employees of technical colleges as provided for in RCW 28B.50.874. [1991 c 238 § 112.]

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**41.56.030 Definitions.** As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body. For the purposes of this section, the public employer of district court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (d) who is a personal assistant to a district judge or court commissioner. For the purpose of (d) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

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

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

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

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of any county with a population of seventy thousand or more, or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended. [1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1987 c 135:** See note following RCW 41.56.020.

**Effective date—1984 c 150:** "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

**Effective date—1975 1st ex.s. c 296:** See RCW 41.58.901.

**Construction—Severability—1973 c 131:** See RCW 41.56.905, 41.56.910.

*Public employment relations commission: Chapter 41.58 RCW.*

## Chapter 41.59

### EDUCATIONAL EMPLOYMENT RELATIONS ACT

#### Sections

- 41.59.935 Construction of chapter—Certain agreements subject to RCW 28A.150.410 and 28A.400.200.  
41.59.940 Effective date—1975 1st ex.s. c 288.

**41.59.935 Construction of chapter—Certain agreements subject to RCW 28A.150.410 and 28A.400.200.** Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with RCW 28A.150.410 and 28A.400.200. [1990 c 33 § 571; 1987 1st ex.s. c 2 § 206; 1981 c 16 § 3.]

**Purpose—Statutory References—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Intent—Severability—Effective dates—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Severability—1981 c 16:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 16 § 5.]

**41.59.940 Effective date—1975 1st ex.s. c 288.** Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW 28A.150.060 and 28A.405.100 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976. [1990 c 33 § 572; 1975 1st ex.s. c 288 § 26.]

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

(2) RCW 41.59.040 and 41.59.050 were repealed by 1979 ex.s. c 146 § 3.

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

## Chapter 41.60

### STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

#### Sections

- 41.60.050 Appropriations for administrative costs.

**41.60.050 Appropriations for administrative costs.** The legislature shall appropriate from the department of personnel service fund for the payment of administrative costs of the productivity board. However, during the 1991-93 fiscal biennium, the administrative costs of the productivity board shall be appropriated from the savings recovery account. [1991 1st sp.s. c 16 § 918; 1987 c 387 § 4; 1985 c 114 § 3; 1983 c 54 § 3; 1982 c 167 § 11; 1975-'76 2nd ex.s. c 122 § 3; 1969 ex.s. c 152 § 6; 1965 ex.s. c 142 § 5.]

**Severability—Effective date—1991 1st sp.s. c 16:** See notes following RCW 9.46.100.

**Effective date—1985 c 114:** See note following RCW 41.60.015.

**Severability—1982 c 167:** See note following RCW 41.60.015.

*Department of personnel service fund: RCW 41.06.280.*

