

provided. The present benefits payable under RCW 41.16.080, 41.16-.120, 41.16.130 and 41.16.140 on July 1, 1969 shall be increased two percent each year using as a basis for such two percent increase, the amount of present benefit payable and not the amount of the future benefit payable which will hereafter be increased by the provisions of this section.

~~((Said-increases-shall-become-effective-July-1, 1969-or-one year-after-the-date-when-the-said-benefits-are-payable, whichever-is later:))~~ As to each person receiving such benefits on or after July 1, 1969, said increases shall take effect as of July 1st, of the first year when such benefits have heretofore or shall hereafter become payable. Each year effective with the July payment all benefits specified herein, shall be increased two percent as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative but shall not be compounded. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.16 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement.

NEW SECTION. Sec. 4. This 1970 amendatory act shall be null and void and of no further force and effect if the 1970 extraordinary session of the legislature does not pass legislation authorizing cities and counties to levy additional taxes or appropriate at least ten million dollars for distribution to cities and towns for the remainder of the 1969-71 fiscal biennium.

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CHAPTER 38
[Engrossed Senate Bill No. 164]
PUBLIC WORKS CONTRACTS--
INVESTMENT OF RETAINED PERCENTAGE

AN ACT Relating to contracts on public works; providing for investment of the retained percentage; amending section 1, chapter

166, Laws of 1921 as last amended by section 1, chapter 151, Laws of 1969 ex. sess. and RCW 60.28.010; amending section 2, chapter 166, Laws of 1921 as last amended by section 23, chapter 26, Laws of 1967 ex. sess. and RCW 60.28.020; and amending section 5, chapter 236, Laws of 1955 as amended by section 24, chapter 26, Laws of 1967 ex. sess. and RCW 60.28.050.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 1, chapter 166, Laws of 1921, as last amended by section 1, chapter 151, Laws of 1969 ex. sess. and RCW 60.28.010 are each amended to read as follows:

(1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of the first one hundred thousand dollars and five percent for all amounts over one hundred thousand dollars of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 which may be due from such contractor. ~~((Said fund shall be retained for a period of thirty days following the final acceptance of said improvement or work as completed, and))~~ Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said ~~((fund))~~ moneys so reserved: PROVIDED, That such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 through 39.08.060 as now existing and in accordance with any

amendments that may hereafter be made thereto: PROVIDED FURTHER, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body, at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the entire contract.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed; or

(b) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed.

When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

~~((2))~~ (3) If the public body administering a contract, other than a contract governed by the provisions of RCW 60.28.070, as amended, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts

retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

Sec. 2. Section 2, chapter 166, Laws of 1921 as last amended by section 23, chapter 26, Laws of 1967 ex. sess. and RCW 60.28.020 are each amended to read as follows:

After the expiration of the thirty day period, and after receipt of the department of revenue's certificate, ~~((the reserve in excess of a sum sufficient to discharge))~~ and the public body is satisfied that the taxes certified as due or to become due by the department of revenue are discharged, and the claims of materialmen and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, ((shall be paid to the contractor)) have been paid, the public body shall pay to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall: (1) deduct such taxes and such claims, expenses and fees from the fund retained by it and pay the remainder, if any, to the contractor; or (2) order the securities and bonds held in escrow to be reconverted to money and returned to the public body who shall deduct such taxes and such claims, expenses, and fees from such sum and pay the remainder, if any, to the contractor.

Sec. 3. Section 5, chapter 236, Laws of 1955 as amended by section 24, chapter 26, Laws of 1967 ex. sess. and RCW 60.28.050 are each amended to read as follows:

Upon final acceptance of a contract, the state, county or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue of the completion of said contract. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he has received from the department of revenue a certificate that all taxes, increases and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

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CHAPTER 39
[Engrossed Senate Bill No. 179]
STATE EMPLOYEES AND OFFICIALS--
INSURANCE AND HEALTH CARE PROGRAMS

AN ACT Relating to insurance and health care programs for state employees and officials; amending section 1, chapter 75, Laws of 1963 as last amended by section 1, chapter 237, Laws of 1969, 1st ex. sess. and RCW 41.04.180; amending section 5, chapter 59, Laws of 1969 and RCW 41.04.230; repealing section 5, chapter 237, Laws of 1969, 1st ex. sess. and RCW 41.04-.200; repealing section 6, chapter 237, Laws of 1969, 1st ex. sess. and RCW 41.04.210; repealing section 8, chapter 237, Laws of 1969, 1st ex. sess.; adding new sections to Title 41 RCW as a new chapter thereof; adding a new section to chapter 1, Laws of 1961 and chapter 41.06 RCW; making an